



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXV
February 19, 2003

NUMBER 17
Pages 1101 to 1172

CONTENTS IN THIS ISSUE

Pages 1114 to 1169 include **ARC 2291B** to **ARC 2322B**

AGENDA

Administrative rules review committee 1106

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Animal exhibitions—update of
requirements, 64.34, 64.35 **ARC 2292B** 1114
Notice, Chronic wasting disease—definitions,
herd status, 64.104, 64.106(3), 64.113(2),
64.115 to 64.117, 64.119, 64.120
ARC 2319B 1116

ALL AGENCIES

Schedule for rule making 1104
Publication procedures 1105
Administrative rules on CD-ROM 1105
Agency identification numbers 1112

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]“umbrella”

Filed, Renewal of certificate of registration;
alternative method for reciprocal registration;
fee for renewal on on-line system, 2.1, 2.2,
2.5, 2.7, 2.8 **ARC 2308B** 1164

CITATION OF ADMINISTRATIVE RULES 1103

CIVIL REPARATIONS TRUST FUND

Notice 1118

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

Notice, State of Iowa scholarship program,
11.1 **ARC 2298B** 1118
Notice, Iowa tuition grant program, 12.1
12.2 **ARC 2297B** 1119
Notice, Iowa vocational-technical tuition
grant program, 13.1 **ARC 2296B** 1121
Notice, Iowa summer institute program,
rescind ch 17 **ARC 2295B** 1122
Notice, Accelerated career education grant
program, 19.1 **ARC 2294B** 1122
Notice, Iowa national guard educational
assistance program, 20.1 **ARC 2293B** 1123

Notice, Iowa grant program, 27.1

ARC 2302B 1124

Filed, Organization and operation, 1.1, 1.2

ARC 2301B 1164

Filed, Elimination of rules for programs for
which there is no longer statutory
authority, rescind chs 16, 26, 28, 33, 34

ARC 2300B 1164

Filed, Approval of postsecondary schools,

21.1 **ARC 2299B** 1165

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Update—forms, instructions, Web

site, 1.4 **ARC 2312B** 1165

Filed, Types of common bond, 2.1, 2.5(1),

2.12, 2.13(1) **ARC 2313B** 1165

Filed, Examination and supervision fees,

rescind ch 3 **ARC 2314B** 1166

Filed, Real estate lending policy—to be
established and maintained by each credit

union, amendments to ch 9 **ARC 2315B** 1166

Filed, Commercial paper characteristics,

17.1 **ARC 2316B** 1166

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed, Expiration date for dental assistant
trainee status; application for dental assistant
trainee status for a person enrolled in an
Iowa high school cooperative education or
work-study program, 20.4, 20.6

ARC 2310B 1167

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Notice, Obtaining a standard license,

14.112 **ARC 2311B** 1125

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Fee structure for licensure,

2.1 **ARC 2307B** 1126

PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other “materials deemed fitting and proper by the Administrative Rules Review Committee” include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers’ Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)“a”]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

Subscriptions and Distribution	Telephone:	(515)281-3568
	Fax:	(515)281-8027
KATHLEEN K. BATES, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Assistant Editor	Fax:	(515)281-8157
		(515)281-4424

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

July 1, 2002, to June 30, 2003	\$277.50 plus \$16.65 sales tax
October 1, 2002, to June 30, 2003	\$218.50 plus \$13.11 sales tax
January 1, 2003, to June 30, 2003	\$147.00 plus \$8.82 sales tax
April 1, 2003, to June 30, 2003	\$73.50 plus \$4.41 sales tax

Single copies may be purchased for \$20.85 plus \$1.25 sales tax.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

Iowa Administrative Code - \$1,273.00 plus \$76.38 sales tax

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$12.00 each plus \$.72 sales tax.)

Iowa Administrative Code Supplement - \$447.75 plus \$26.87 sales tax

(Subscription expires June 30, 2003)

All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

Attn: Stephanie Cox
Legislative Service Bureau
Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

ENVIRONMENTAL PROTECTION**COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Filed, Definitions—“emission data” and
“effluent data,” 2.1 **ARC 2304B** 1167
- Filed, Contested cases—adoption by
reference, 7.1 **ARC 2306B** 1167
- Filed Emergency After Notice, Minimum
separation distances; collection of annual
compliance fee; submission of annual manure
management plan updates; site inspection and
construction permit application review process;
master matrix, 65.1, 65.3(3), 65.9(1), 65.10,
65.11(2), 65.16, ch 65 appendix C, master
matrix; tables 6, 7 **ARC 2321B** 1145
- Filed, Waste tire management—separation
distance for permitted waste tire stockpile
and implement, 117.3(3), 117.4(3)
ARC 2305B 1167

HUMAN SERVICES DEPARTMENT[441]

- Notice, Contested case proceedings, 7.1 to 7.5,
7.6(1), 7.7 to 7.10, 7.13, 7.15, 7.16, 7.18,
7.20 to 7.23, 7.24(1) **ARC 2317B** 1126
- Notice, Child support recovery unit
services, amendments to chs 95 to 98
ARC 2318B 1135

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- Notice, Adoption by reference—federal
occupational safety and health
record-keeping regulations, 4.3 **ARC 2291B** ... 1140

LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701]“umbrella”

- Notice, Executive order number 8—
review of rules, amendments to
chs 1 to 3, 8, 11, 13 **ARC 2320B** 1140
- Filed Emergency, Application fee for
lottery license, 2.4(3) **ARC 2322B** 1163

NATURAL RESOURCES DEPARTMENT[561]

- Filed, Rules of practice in contested cases,
7.1 to 7.4, 7.9, 7.10(1), 7.12, 7.13,
7.15 to 7.19 **ARC 2303B** 1168

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Filed, Barbers, 21.2(1)“f,” 21.10(6),
21.11(7); ch 23; 26.1(8) **ARC 2309B** 1168

PUBLIC HEARINGS

- Summarized list 1110

TREASURER OF STATE

- Notice—Public funds interest rates 1143

USURY

- Notice 1144

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC
(chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication
date), (page number), (ARC number).

Schedule for Rule Making 2003

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sept. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sept. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sept. 29
Mar. 28	Apr. 16	May 6	May 21	May 23	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	July 4	July 23	Aug. 27	Nov. 24
May 23	June 11	July 1	July 16	July 18	Aug. 6	Sept. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sept. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sept. 3	Oct. 8	Jan. 5 '04
July 4	July 23	Aug. 12	Aug. 27	Aug. 29	Sept. 17	Oct. 22	Jan. 19 '04
July 18	Aug. 6	Aug. 26	Sept. 10	Sept. 12	Oct. 1	Nov. 5	Feb. 2 '04
Aug. 1	Aug. 20	Sept. 9	Sept. 24	Sept. 26	Oct. 15	Nov. 19	Feb. 16 '04
Aug. 15	Sept. 3	Sept. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 1 '04
Aug. 29	Sept. 17	Oct. 7	Oct. 22	Oct. 24	Nov. 12	Dec. 17	Mar. 15 '04
Sept. 12	Oct. 1	Oct. 21	Nov. 5	Nov. 7	Nov. 26	Dec. 31	Mar. 29 '04
Sept. 26	Oct. 15	Nov. 4	Nov. 19	***Nov. 19***	Dec. 10	Jan. 14 '04	Apr. 12 '04
Oct. 10	Oct. 29	Nov. 18	Dec. 3	Dec. 5	Dec. 24	Jan. 28 '04	Apr. 26 '04
Oct. 24	Nov. 12	Dec. 2	Dec. 17	***Dec. 17***	Jan. 7 '04	Feb. 11 '04	May 10 '04
Nov. 7	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '04	Jan. 21 '04	Feb. 25 '04	May 24 '04
Nov. 19	Dec. 10	Dec. 30	Jan. 14 '04	Jan. 16 '04	Feb. 4 '04	Mar. 10 '04	June 7 '04
Dec. 5	Dec. 24	Jan. 13 '04	Jan. 28 '04	Jan. 30 '04	Feb. 18 '04	Mar. 24 '04	June 21 '04
Dec. 17	Jan. 7 '04	Jan. 27 '04	Feb. 11 '04	Feb. 13 '04	Mar. 3 '04	Apr. 7 '04	July 5 '04
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, February 28, 2003	March 19, 2003
20	Friday, March 14, 2003	April 2, 2003
21	Friday, March 28, 2003	April 16, 2003

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, First Floor South, Grimes State Office Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

2002 SUMMER EDITION

Containing: **Iowa Administrative Code** (updated through June 2002)
Iowa Administrative Bulletins (January through June 2002)
Iowa Court Rules (updated through June 2002)

For free brochures and order forms contact:

Legislative Service Bureau
Attn: Ms. Stephanie Cox
State Capitol
Des Moines, Iowa 50319
Telephone: (515)281-3566 Fax: (515)281-8027
lsbinfo@staff.legis.state.ia.us

The Administrative Rules Review Committee will hold a special meeting, which is tentatively scheduled for Monday, March 10, 2003, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Health requirements for animals exhibited at fairs and district shows,

64.34, 64.35, Notice **ARC 2292B** 2/19/03

Chronic wasting disease surveillance and monitoring program, 64.104, 64.106(3),

64.113(2), 64.115 to 64.117, 64.119, 64.120, Notice **ARC 2319B** 2/19/03

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Registration, 2.1, 2.2(3), 2.2(4), 2.5(4) to 2.5(6), 2.7(4),

2.7(5), 2.8, Filed **ARC 2308B** 2/19/03

CAPITAL INVESTMENT BOARD, IOWA[123]

Tax credit for investments in venture capital funds, adopt ch 3, Filed **ARC 2290B** 2/5/03

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Organization and operation, 1.1, 1.2, Filed **ARC 2301B** 2/19/03

State of Iowa scholarship program, ch 11, Notice **ARC 2298B** 2/19/03

Iowa tuition grant program, ch 12, Notice **ARC 2297B** 2/19/03

Iowa vocational-technical tuition grant program, ch 13, Notice **ARC 2296B** 2/19/03

Iowa science and mathematics loan program; Iowa science and mathematics grant program;

access to education grant program; graduate student financial assistance program;
cosmetology and barber grants, rescind chs 16, 26, 28, 33, 34, Filed **ARC 2300B** 2/19/03

Iowa summer institute program, rescind ch 17, Notice **ARC 2295B** 2/19/03

Accelerated career education grant program, ch 19, Notice **ARC 2294B** 2/19/03

Iowa national guard educational assistance program, 20.1, Notice **ARC 2293B** 2/19/03

Approval criteria for postsecondary schools, 21.1, Filed **ARC 2299B** 2/19/03

Iowa grant program, 27.1, Notice **ARC 2302B** 2/19/03

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]"umbrella"

Forms and instructions, 1.4, Filed **ARC 2312B** 2/19/03

Organization, chartering and field of membership of a credit union,

2.1, 2.5(1), 2.12(3), 2.12(4), 2.13(1), Filed **ARC 2313B** 2/19/03

Examination and supervision fees, rescind ch 3, Filed **ARC 2314B** 2/19/03

Real estate lending, ch 9, Filed **ARC 2315B** 2/19/03

Commercial paper purchased for investment, 17.1, Filed **ARC 2316B** 2/19/03

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Dental assistant trainee status, 20.4(1), 20.4(2), 20.6(1), 20.6(2), Filed **ARC 2310B** 2/19/03

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Requirements for a standard license, 14.112, Notice **ARC 2311B** 2/19/03

EDUCATION DEPARTMENT[281]

Nonvoting student member added to state board of education, 1.1 to 1.4, 1.4(1),

1.4(4), Filed **ARC 2274B** 2/5/03

Open enrollment, 17.4, 17.4(6), Filed **ARC 2273B** 2/5/03

Waiver of school fees—elimination of SKIT guidelines as eligibility standard,

18.3(1)"a," Notice **ARC 2275B** 2/5/03

Approval of on-the-job training establishments and programs for qualified veterans,

ch 51, Notice **ARC 2276B** 2/5/03

Approval of educational institutions for the education and training

of eligible veterans, ch 52, Notice **ARC 2277B** 2/5/03

Charter schools, rescind ch 68, Filed **ARC 2278B** 2/5/03

Teacher quality program, 83.2, 83.3(2), 83.3(3), 83.4, 83.4(9),

83.5, 83.6, Notice **ARC 2279B** 2/5/03

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]“umbrella”Licensure fees, 2.1, Notice **ARC 2307B** 2/19/03**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Public records and fair information practices, 2.1, Filed **ARC 2304B** 2/19/03Rules of practice in contested cases, 7.1, Filed **ARC 2306B** 2/19/03

Animal feeding operations—master matrix, separation distances, fees, manure management plans,

65.1, 65.3(3)“g,” 65.9(1)“n,” 65.10, 65.11(2), 65.16(1), 65.16(3) to 65.16(7),

ch 65 appendix C, ch 65 tables 6 and 7, Filed Emergency After Notice **ARC 2321B** 2/19/03Waste tire management, 117.3(3), 117.4(3)“a”(8), 117.4(3)“a”(17), Filed **ARC 2305B** 2/19/03**GENERAL SERVICES DEPARTMENT[401]**Office space management, 3.1, 3.6, Filed **ARC 2283B** 2/5/03**HUMAN SERVICES DEPARTMENT[441]**Contested case proceedings, 7.1 to 7.4, 7.5(2)“a”(5) to (16), 7.5(2)“d” and “f” to “i,” 7.5(3),
7.5(4)“a” and “b,” 7.5(4)“b”(4), 7.5(6), 7.5(7), 7.5(9), 7.5(10), 7.6(1), 7.7(1), 7.7(1)“b”(3),
7.7(2)“f” and “n,” 7.7(3), 7.7(5)“e,” 7.7(6), 7.8(1), 7.8(2), 7.8(5), 7.8(8), 7.8(9)“a” to “c,”
7.9(1), 7.9(1)“b,” 7.9(2), 7.9(2)“c” to “e,” 7.9(4)“a,” 7.10(4)“e,” 7.10(5), 7.10(7), 7.13(5)“b,”
7.13(6)“c,” 7.15, 7.16(2), 7.16(3), 7.16(5) to 7.16(7), 7.16(9)“b,” 7.16(10), 7.18(1),
7.18(3), 7.20(1), 7.20(2)“b,” 7.21(1), 7.21(2), 7.21(2)“a” to “c,” 7.21(3) to 7.21(6), 7.22,
7.23, 7.24(1), Notice **ARC 2317B** 2/19/03

Offset of county debts owed department, 14.1, 14.4(1)“e” and “f,”

14.4(3), Filed Emergency **ARC 2260B** 2/5/03

Rent subsidy program, 53.1, 53.2(4), 53.3, 53.3(2), 53.3(4), 53.3(4)“b” and “c,”

53.5(2), 53.6(2), 53.6(3), Filed **ARC 2254B** 2/5/03Refugee services program—eligibility of victims of trafficking, 61.1, 61.3, Notice **ARC 2286B** 2/5/03

Procedure for independent determination of disability for SSI-related Medicaid,

75.1(35)“f”(2), 75.20(2)“b,” Filed Emergency After Notice **ARC 2261B** 2/5/03

Attribution of resources appeal—estimate of cost of annuity,

75.5(3)“f”(4), (5) and (7), Filed **ARC 2255B** 2/5/03

Coverage for community mental health centers, 78.16(1)“b”(1) to (4),

78.16(2), 78.16(3), Filed Emergency **ARC 2258B** 2/5/03

Provision of supported community living services in community-based, integrated settings,

78.41(1)“d,” 78.43(2)“d,” Filed Emergency **ARC 2257B** 2/5/03

Intermediate care facilities for the mentally retarded—certificate of need,

82.19, Filed Emergency **ARC 2259B** 2/5/03

Child support recovery unit services, 95.2(4)“a” and “b,” 95.3(1)“b,” 95.6,

95.6(1) to 95.6(7), 95.7, 95.7(2)“a,” 95.7(4), 95.7(6) to 95.7(8), 95.7(8)“a,”

95.8, 95.13, 95.14(1) to 95.14(4), 95.15(1), 95.15(3)“c,” 95.18(1), 95.18(2),

95.19(1)“c,” 95.19(2), 95.20, 95.21(2), 96.1(2), 96.1(3), 96.1(3)“b” and “d,”

96.2, 96.4(4), 96.5(3), 97.2, 97.4, 98.81(6), Notice **ARC 2318B** 2/19/03

Child support, 99.1, 99.1(1)“b” and “c,” 99.1(2)“b”(2), 99.1(2)“e,” 99.1(4)“b,”

99.10, 99.24, 99.29, 99.32, 99.36, 99.38, 99.39(1), 99.39(3), 99.41(1), 99.61,

99.62, 99.62(2), 99.62(3), 99.62(3)“a”(1), 99.62(3)“b,” 99.63(1) to 99.63(3),

99.63(3)“a” and “b,” 99.63(4), 99.63(4)“a” and “b,” 99.63(4)“b”(1),

99.63(4)“c” and “d,” 99.64(1), 99.65(1), 99.65(1)“c,” 99.65(2), 99.65(3),

99.67(1), 99.67(2), 99.68, 99.69(2), 99.69(3), 99.70(1) to 99.70(3), 99.71,

ch 99 div V preamble, 99.81, 99.83(2)“a” and “b,” 99.83(3), 99.83(5),

99.83(6)“b,” 99.84(1), 99.84(1)“b”(1) and (2), 99.84(1)“b”(3)“1” and “2,”

99.85, 99.85(1), 99.85(3), 99.86(2), 99.86(3), 99.88, 99.89(1), 99.90, 99.91(4),

99.91(5), 99.101, 99.102, 99.107(4)“f,” 99.109, Filed **ARC 2256B** 2/5/03**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Record-keeping—occupational injuries and illnesses, 4.3, Notice **ARC 2291B** 2/19/03

Safety standards for exit routes, emergency action plans,

and fire prevention plans, 10.20, Notice **ARC 2282B** 2/5/03Safety standards for signs, signals and barricades, 26.1, Filed **ARC 2281B** 2/5/03

LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701]"umbrella"

General operation; licensing; placement of lottery equipment; scratch tickets;

pull-tab tickets; computerized lottery games, 1.3, 1.4, 1.6, 1.22, 1.29(4),
2.16(1) to 2.16(3), 3.13, 8.3, 8.4, 8.8, 8.9(1)"g" and "h," 11.3, 11.5(1)"c" to "g,"13.4, 13.6, 13.7, 13.14, 13.21, 13.23, Notice **ARC 2320B** 2/19/03Lottery license fees, 2.4(3), Filed Emergency **ARC 2322B** 2/19/03**NATURAL RESOURCES DEPARTMENT[561]**

Rules of practice in contested cases, 7.1 to 7.4, 7.9(1), 7.9(4), 7.9(6),

7.10(1)"d," 7.12(1)"a," 7.12(2), 7.13, 7.15(2)"b," 7.15(3)"b"(2),

7.15(5)"d," 7.15(7)"b," 7.16, 7.17, 7.17(1), 7.17(5) to 7.17(7),

7.18, 7.19, Filed **ARC 2303B** 2/19/03**PERSONNEL DEPARTMENT[581]**IPERS, 21.13(13), 21.18(2), 21.35, Filed **ARC 2287B** 2/5/03**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Barber examiners, 21.2(1)"f," 21.10(6), 21.11(7); ch 23;

26.1(8), Filed **ARC 2309B** 2/19/03Optometry examiners, 180.1, 180.5(3) to 180.5(5), Filed **ARC 2252B** 2/5/03Podiatry examiners, 220.1, 220.9(3) to 220.9(5), 223.3, Filed **ARC 2253B** 2/5/03**PUBLIC HEALTH DEPARTMENT[641]**Backflow prevention assembly tester registration, ch 26, Notice **ARC 2269B** 2/5/03

Radiation, 38.1(2), 38.2, 38.8(1)"e," 38.8(6)"b," 38.8(11)"a"(3), 39.1(3), 39.3(3)"f,"

39.4(22)"d"(3)"13," 39.4(22)"d"(5), 39.4(29)"j"(1)"2" and "3,"

39.4(29)"j"(2)"2," "4" and "5," 39.4(29)"j"(3), 39.4(29)"l," 39.4(29)"l"(2)"1" and "4,"

39.4(29)"l"(3), 39.4(31)"c," 40.1(5), 40.32(1)"a," 40.60(4), 40.65(4)"a,"

40.80(5), 40.97(1)"b"(3) to (6), ch 40 appendix A, 41.1(1), 41.1(2), 41.1(3)"a,"

41.1(3)"a"(3)"1," 41.1(3)"a"(5)"2," 41.1(3)"a"(7), 41.1(3)"a"(8)"3,"

41.1(3)"a"(11) and (12), 41.1(3)"f"(1)"2," 41.1(3)"f"(2)"1," 41.1(3)"g,"

41.1(5)"c"(1)"1," "2" and "4" to "6," 41.1(5)"f"(4), 41.1(6)"a"(5),

41.1(6)"b"(1), 41.1(6)"b"(2)"2," 41.1(6)"d" and "e," 41.1(6)"g"(2),

41.1(6)"h"(1)"3," 41.1(11)"a," 41.1(11)"d"(1)"1," 41.1(11)"d"(2)"6,"

41.2(1)"b," 41.2(4)"e," 41.2(10)"b," 41.2(11)"a"(5), 41.2(14)"f," 41.2(80),

41.2(87)"h," 41.2(88), 41.6(1), 41.6(2)"e," 41.6(3)"a"(2)"1,"

41.6(5)"k"(5)"1," "3" and "10," 41.6(7)"b," 41.7(2)"e," 41.7(4)"b"(2),

41.7(4)"c," 41.7(5)"c," 41.7(7)"d"(2), 41.7(7)"f," ch 41 appendix C "15" to "17,"

42.1(2), 42.2(2), 42.2(2)"e," 42.2(3)"e," 42.2(7), 42.2(8), 42.3(3)"a," 42.4(3)"d,"

42.5(3)"d," 45.1(1)"b," 45.1(2), 45.1(6), 45.1(10)"a," 45.1(11), 45.1(12)"b"(1),

45.1(13), 45.1(17)"c" and "e," 45.2(4)"b" and "c," 45.3(2)"a," 45.3(6)"c" and "e,"

45.6(17)"b" and "c," ch 45 appendix A, Notice **ARC 2272B** 2/5/03

Hospital ethics committees empowered to act as local substitute decision-making boards,

85.3(1) Notice **ARC 2268B** 2/5/03Child protection center grant program, adopt ch 94, Notice **ARC 2267B** 2/5/03

State medical examiner—fees for autopsies and related services,

reimbursement for related expenses, 126.1, 126.3, Filed **ARC 2270B** 2/5/03

County medical examiners—deaths for which autopsies are required or recommended,

127.3, 127.5(1) Filed **ARC 2271B** 2/5/03**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Ruling from other jurisdictions; service of administrative actions;

certified peace officers; license probationary periods; grounds for discipline;

filing of claim for horse; license fee; submission of medication reports;

4.4(1)"b," 4.5(5), 4.6(1)"b," 4.6(5)"b," 4.8, 4.9, 5.4(5)"a," 6.7, 6.15, 6.16(5)"c,"

9.6(15)"a"(1), 10.7(4)"c," 11.1, 11.12(8)"n"(3), (4), (6) and (7),

11.12(8)"o," Filed **ARC 2280B** 2/5/03**REVENUE AND FINANCE DEPARTMENT[701]**

Sales tax exemption for purchase of building materials, supplies and equipment

for construction contracts for exempt entities, 19.12, Filed **ARC 2288B** 2/5/03

Tax credit for equity investment in venture capital fund, 42.18(2), 52.21(2),

58.11(2), Filed **ARC 2289B** 2/5/03

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Approval and review of attorney fee claims, 1.4(4), 12.2(9), 12.6, 12.8(1)"b" and "c,"

12.9(1)"a," 12.9(2)"b," Filed **ARC 2262B** 2/5/03**TRANSPORTATION DEPARTMENT[761]**

Procurement of equipment, materials, supplies and services, 20.2(4)"a" and "b,"

20.3, 20.4(1) to 20.4(3), 20.4(7), 20.5, 20.8, Filed **ARC 2266B** 2/5/03Keep Iowa beautiful program, adopt ch 122, Filed **ARC 2265B** 2/5/03

Federal motor carrier safety regulations—adoption by reference, 520.1(1)"a" and "b,"

520.2, Notice **ARC 2263B** 2/5/03

For-hire interstate motor carrier authority—cross reference updated,

529.1, Notice **ARC 2264B** 2/5/03**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Rules revisions as required by executive orders 8 and 9,

19.1(1) to 19.1(3), 19.2, 19.3, 19.5(2), 19.5(3), 19.6(5) to 19.6(7),

19.7(4), 19.7(7), 19.9, 19.10(1)"d," 19.10(5), 19.11(6),

19.12(4), 19.13(4)"c," 19.15, 19.16(5), 20.1, 20.2, 20.2(2) to 20.2(5),

20.3(2), 20.3(6), 20.3(13), 20.6(5) to 20.6(7), 20.7(8), 20.8(3), 20.9(2)"b"(6),

20.10(2)"c," 20.10(7) to 20.10(9), 20.11, 20.12, 20.14(4), 20.15 to 20.17, 21.1,

21.2(1), 21.3(5)"e," 21.6(6), 21.8(3)"e," 35.14, 35.15, 36.7, 36.8, Notice **ARC 2284B** 2/5/03

Customer rights and remedies to avoid disconnection,

19.4(15)"h"(3), 20.4(15)"h"(3), Notice **ARC 2285B** 2/5/03**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2003.

Senator Jeff Angelo
808 West Jefferson
Creston, Iowa 50801

Senator Michael Connolly
3458 Daniels Street
Dubuque, Iowa 52002

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
Route 5, Box 101H
Chariton, Iowa 50049

Senator Donald Redfern
415 Clay Street
Cedar Falls, Iowa 50613

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-5995

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
3533 Fenton Avenue
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Mark Kuhn
2667 240th Street
Charles City, Iowa 50616

Brian Gentry
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
--------	------------------	--------------------------

EDUCATIONAL EXAMINERS BOARD[282]

Requirements for a standard license, 14.112 IAB 2/19/03 ARC 2311B	Room 2 South Grimes State Office Bldg. Des Moines, Iowa	March 18, 2003 1 p.m.
--	---	--------------------------

EDUCATION DEPARTMENT[281]

Eligibility standard for waiver of school fees, 18.3(1) IAB 2/5/03 ARC 2275B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 27, 2003 9 a.m.
Approval of on-the-job training establishments for qualified veterans, 51.1 to 51.4 IAB 2/5/03 ARC 2276B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 25, 2003 10 a.m.
Approval of programs for qualified veterans at educational institutions, 52.1 to 52.15 IAB 2/5/03 ARC 2277B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 25, 2003 1 p.m.
Teacher quality program, 83.2 to 83.6 IAB 2/5/03 ARC 2279B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 27, 2003 11 a.m.

LABOR SERVICES DIVISION[875]

Occupational injuries and illnesses— record-keeping regulations, 4.3 IAB 2/19/03 ARC 2291B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	March 11, 2003 1:30 p.m.
Safety standards for exit routes and emergency action and fire prevention plans adopted by OSHA, 10.20 IAB 2/5/03 ARC 2282B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	February 25, 2003 1:30 p.m.

LOTTERY DIVISION[705]

Rules review, amendments to chs 1 to 3, 8, 11, 13 IAB 2/19/03 ARC 2320B	2015 Grand Ave. Des Moines, Iowa	March 13, 2003 9 a.m. (If requested)
--	-------------------------------------	--

PUBLIC HEALTH DEPARTMENT[641]

Backflow prevention assembly tester registration, ch 26 IAB 2/5/03 ARC 2269B	Room 518 Lucas State Office Bldg. Des Moines, Iowa	February 25, 2003 1 p.m.
Radiation, amendments to chs 38 to 42 and 46 IAB 2/5/03 ARC 2272B	Conference Room, Suite D 401 SW Seventh St. Des Moines, Iowa	February 25, 2003 8:30 a.m.
Local substitute medical decision-making boards, 85.3(1) IAB 2/5/03 ARC 2268B	Room 415 Lucas State Office Bldg. Des Moines, Iowa	February 25, 2003 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Regulations applicable to carriers, 520.1, 520.2 IAB 2/5/03 ARC 2263B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 13, 2003 10 a.m. (If requested)
For-hire interstate motor carrier authority, 529.1 IAB 2/5/03 ARC 2264B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 13, 2003 1 p.m. (If requested)

UTILITIES DIVISION[199]

Customer rights and remedies to avoid disconnection, 19.4(15), 20.4(15) IAB 2/5/03 ARC 2285B	Hearing Room 350 Maple St. Des Moines, Iowa	April 8, 2003 10 a.m.
--	---	--------------------------

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INFORMATION TECHNOLOGY DEPARTMENT[471]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 2292B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

The purpose of these amendments is to update animal exhibition requirements in Iowa to be used at county fairs, 4-H fairs or exhibitions, or similar exhibitions. The Department intends to file these amendments emergency after notice in order to provide as much advance notice as possible to exhibitors and exhibition officials.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on March 26, 2003. Such written materials should be directed to Dr. John Schiltz, State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-4282. E-mail comments may be sent to John.Schiltz@idals.state.ia.us.

No waiver provision is included in these proposed amendments because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to the rules amended in this filing.

These amendments are intended to implement Iowa Code chapter 163.

The following amendments are proposed.

ITEM 1. Amend rule 21—64.34(163) as follows:

21—64.34(163) Livestock exhibition—health certificate required. Health requirements for exhibition of livestock, poultry and birds at state fair and district shows.

64.34(1) General requirements. All livestock animals, poultry and birds intended for any exhibition ~~except local FFA and 4-H fairs~~ will be considered under quarantine and not eligible for showing until the owner or agent presents an official ~~health certificate~~ *Certificate of Veterinary Inspection*. The certificate must be issued by an accredited veterinarian within 30 days (*14 days for sheep*) prior to the date of entry; and must indicate that the veterinarian has inspected the animals, poultry or birds and any nurse stock that accompany them, and that they are apparently free from symptoms of any infectious disease (including warts, ringworm, footrot, draining abscesses and pinkeye) or any communicable disease. *Individual Certificates of Veterinary Inspection will not be required in certain classes, if the division superintendent for the exhibition has made prior arrangements with the official fair veterinarian to have all animals and birds inspected on arrival.*

64.34(1 2) Cattle Breeding cattle. Steers, beef-type heifers, exhibited in market classes, and native Iowa cattle originating from a herd not under quarantine can be exhibited ~~without a record of a negative tuberculosis or brucellosis test, when accompanied by an official health certificate showing~~

individual identification for each animal. Cattle originating outside the state must be accompanied by an official health certificate indicating both of the following:

a. Either individual identification when the animal originates from a herd not under quarantine for tuberculosis or a negative tuberculosis test; and Tuberculosis. Cattle originating from a herd or area not under quarantine may be exhibited without other testing requirements when accompanied by a Certificate of Veterinary Inspection that lists individual official identification. Cattle from a herd or area under quarantine for tuberculosis may not be exhibited.

b. Brucellosis. ~~A negative brucellosis test confirmed by a state-federal laboratory; or in lieu thereof an official health certificate indicating one of the following:~~

(1) ~~The animal is under 24 months if beef breed or 20 months if dairy breed and has received an official brucellosis vaccination; Native Iowa cattle originating from a herd not under quarantine may be exhibited when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.~~

(2) ~~A report of a negative brucellosis test conducted within 75 days prior to opening date of exhibition, provided the animal originates from a herd not under quarantine; Cattle originating outside the state must meet one of the following requirements:~~

1. Originate from brucellosis class “free” states, when accompanied by a Certificate of Veterinary Inspection that lists individual official identification; or

2. Beef heifers under 24 months of age and dairy heifers under 20 months of age which are official brucellosis vaccines, when accompanied by a Certificate of Veterinary Inspection that lists the official calfhood vaccination tattoo and individual official identification; or

3. Animals of any age that originate from a herd not under quarantine when accompanied by a Certificate of Veterinary Inspection that lists a report of a negative brucellosis test conducted within 30 days prior to opening date of exhibition and individual official identification; or

4. Originate from a certified brucellosis-free herd, accompanied by a Certificate of Veterinary Inspection that lists individual official identification, herd number, and date of last test; or

5. Calves under six months of age when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(3) ~~Individual identity, herd number, and date of last test provided the animal originates from a certified brucellosis-free herd; or All brucellosis tests must have been confirmed by a state-federal laboratory. All nurse cows which accompany calves to be exhibited must meet the health requirements set forth in 64.34(2)“b.”~~

(4) ~~Individual identification provided the animal is a calf under eight months of age.~~

64.34(3) Market beef cattle. Steers and beef-type heifers exhibited in market classes must be accompanied by a Certificate of Veterinary Inspection, showing individual official identification for each animal, and must originate from a herd not under quarantine.

64.34(2 4) Swine. All swine must originate from a herd or area not under quarantine and must be individually identified on a Certificate of Veterinary Inspection. ~~The exhibitors must present both a signed affidavit stating that to the best of their knowledge there has been no evidence of swine dysentery for the past 12 months and a test record indicating that the swine have had a negative test for pseudorabies within 30 days prior to the show. Plastic tags issued by 4-H officials may be substituted for an official metal test tag, when an~~

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

additional identification (ear notch) is also recorded on the test chart and Certificate of Veterinary Inspection. All identification is to be recorded on the pseudorabies test chart and the Certificate of Veterinary Inspection.

a. Brucellosis. All breeding swine six months of age and older must:

- (1) Originate from a brucellosis class "free" state; or*
- (2) Originate from a brucellosis validated herd with herd certification number and date of last test listed on the Certificate of Veterinary Inspection; or*
- (3) Have a negative brucellosis test conducted within 60 days prior to show and confirmed by a state-federal laboratory.*

b. Aujeszky's Disease (pseudorabies)—all swine.

(1) All exhibitors must present a test record and Certificate of Veterinary Inspection that indicate that each swine has had a negative test for pseudorabies within 30 days prior to the show (individual show regulations may have more restrictive time restrictions), regardless of the status of the herd, and that show individual official identification. Electronic identification will not be considered official identification for exhibition purposes.

(2) Swine that return from an exhibition to the home herd or that are moved to a purchaser's herd following an exhibition or consignment sale must be isolated and retested negative for pseudorabies not less than 30 and not more than 60 days after reaching their destination.

~~All purebred or grade breeding swine six months of age or over must either: (a) have a negative brucellosis test conducted within 60 days prior to the show and confirmed by a state-federal laboratory; or (b) originate from a brucellosis-validated herd; and indicate on each health certificate the date of the last test and herd certificate number; or (c) originate from a validated brucellosis-free state.~~

64.34(3 5) Sheep and goats. All sheep and goats must be individually identified and a record of the identification noted on the ~~health certificate~~ *Certificate of Veterinary Inspection* and must originate from a herd or flock not under quarantine. Any evidence of club lamb fungus, draining abscesses, ringworm, footrot, sore mouth or any other contagious disease ~~will~~ shall eliminate the animal from the show. The *Certificate of Veterinary Inspection* for sheep shall require clinical inspection by an accredited veterinarian within 14 days (30 days for goats) prior to date of entry to exhibition grounds.

a. Sheep and goats—scrapie. All sexually intact sheep must be identified with an individual scrapie flock of origin identification tag, and this number must be listed on the Certificate of Veterinary Inspection.

All sexually intact goats must be identified with an individual scrapie flock of origin identification tag or by an official registered tattoo, and one of these numbers must be listed on the Certificate of Veterinary Inspection. The Certificate of Veterinary Inspection must also include a statement certifying the herd's participation in the scrapie program.

b. Goats—brucellosis and tuberculosis. Goats must be from a state certified brucellosis-free herd, or from a class "free" state (brucellosis), or have a record of a negative brucellosis test performed within 90 days of the exhibition. In addition, they must originate from a herd having a negative tuberculosis test within the last 12 months, or from a class "free" state (TB); or have a record of a negative tuberculosis test performed within 90 days of exhibition.

64.34(4 6) Horses and mules. Native Iowa horses and mules can be exhibited when accompanied by an individual ~~certificate~~ *Certificate of Veterinary Inspection* In-

spection listing individual identification or a description of the individual animals.

All equine, six months of age or older, originating from outside the state shall be accompanied by an official ~~certificate~~ *Certificate of Veterinary Inspection* listing individual identification or a description of the individual animals; and indicating that each animal in the shipment has had a negative official equine infectious anemia test within 12 months of importation. The testing laboratory, ~~laboratory~~ *accession number* and date of test must appear on the certificate.

64.34(5 7) Poultry and birds. All poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test performed within 90 days of the exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

64.34(6 8) Dogs and cats. Dogs and cats exhibited must have current, *official* rabies vaccination certificates.

64.34(7 9) Removal from fair or exhibition. The veterinary inspector in charge shall order *that* any livestock, poultry or birds found to be infected with any contagious or infectious disease, be removed from the fair or exhibition.

64.34(8 10) Farm deer. As defined in Iowa Code section 481A.1, subsection 20, paragraph "h," farm deer six months of age or over must originate from a herd not under quarantine and be tested negative for Tuberculosis (TB) within 90 days of exhibition by the Single Cervical Tuberculin (SCT) test (Cervidae), or originate from an Accredited Herd (Cervidae), or originate from a Qualified Herd (Cervidae), with test dates shown on the ~~certificate~~ *Certificate of Veterinary Inspection*. Herd status and SCT test are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules effective May 15, 1994.

Farm deer six months of age or over must also be ~~classified as~~ *tested* negative for Brucellosis within 90 days of exhibition, or originate from a Certified Brucellosis-Free Cervid Herd, or a Cervid Class Free Status State (Brucellosis). This negative status must be determined by Brucellosis tests approved for cattle and bison and tested in a cooperative state-federal laboratory.

All Cervidae must have been part of the herd of origin for at least one year or were natural additions, or must have originated from a chronic wasting disease monitored or certified herd in which these animals have been kept for at least one year or were natural additions. Cervidae originating from a herd with a diagnosis, signs, or epidemiological evidence or an area under quarantine for chronic wasting disease shall not be exhibited. One of the following statements must appear on the Certificate of Veterinary Inspection:

"All Cervidae on this certificate have been part of the herd of origin for at least one year or were natural additions to this herd. There has been no diagnosis, signs, or epidemiological evidence of chronic wasting disease in this herd for the past year," or

"All Cervidae on this certificate originate from a chronic wasting disease monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of chronic wasting disease in this herd for the past year."

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

ITEM 2. Amend rule 21—64.35(163) as follows:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

21—64.35(163) Health requirements for exhibition of livestock, poultry and birds at county exhibitions. Each county fair shall have an official veterinarian who will inspect all livestock, poultry and birds when they are unloaded or shortly thereafter. No ~~certificate~~ *Certificate of veterinary inspection* will be required on livestock, poultry and birds exhibited at a county 4-H or FFA show. Quarantined animals or animals from quarantined herds cannot be exhibited. Evidence of warts, ringworm, footrot, pink-eye, *draining abscesses* or any other contagious or infectious condition will eliminate the animal from the show.

64.35(1) Swine. Swine exhibitors shall present to the veterinarian the following: ~~(a)~~ a signed affidavit stating *that the swine did not originate from a quarantined herd and that, to the best of their knowledge, swine dysentery has not been in evidence in their herd for the past 12 months; and* ~~(b)~~ a record of a negative pseudorabies test performed within 30 days before the exhibition, subject to 64.35(2).

64.35(2) Exceptions. No testing for pseudorabies shall be required *at an exhibition that involves only for* ~~(a)~~ market classes of swine, provided the animals are consigned *directly* to a slaughter establishment from the exhibition. *The site from which the exhibited swine originate must have a current pseudorabies monitored status. Swine leaving the exhibition from a market class must be consigned and move directly to a slaughtering establishment. All market swine from Stage II counties must be vaccinated against pseudorabies. ; (b) any swine that originate from a state-approved "Aujeszky's Free Herd"; or (c) breeding animals exhibited in a split show and returned home before the market classes arrive.*

64.35(3) Dogs and cats. All dogs and cats exhibited in county exhibitions must have a current, *official* rabies certification.

64.35(4) Poultry and birds. Except as provided in this subrule, all poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test performed within 90 days of exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

However, no testing for salmonella pullorum-typhoid shall be required for "market classes" of poultry, if the poultry are consigned to a slaughter establishment directly from the exhibition. Poultry exhibited in these "market classes" shall be maintained separate and apart from poultry not exempted from the testing requirements. Separate and apart shall include both of the following: ~~(a)~~ holding poultry so that neither poultry nor organic material originating from the poultry has physical contact with other poultry; and ~~(b)~~ poultry exhibited in "market classes" shall be maintained in enclosures at least ten feet apart or separated by an eight-foot high solid partition from all other poultry. Poultry exhibited in "market classes" shall be so declared at the time of entry into this exhibition or before.

All enclosures maintaining poultry shall be thoroughly cleaned and disinfected.

64.35(5) Sheep and goats. *All sexually intact sheep must have an individual scrapie flock of origin identification tag. All sexually intact goats must have an individual scrapie flock of origin identification tag or an official registered tattoo.*

64.35(6) Farm deer. *As defined in Iowa Code section 481A.1, subsection 20, paragraph "h," farm deer six months of age or over must originate from a herd not under quarantine and be tested negative for Tuberculosis (TB) within 90 days of exhibition by the Single Cervical Tuberculin (SCT) test (Cervidae), or originate from an Accredited Herd (Cervidae), or originate from a Qualified Herd (Cervidae), with test*

dates shown on the Certificate of Veterinary Inspection. Herd status and SCT test are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules effective May 15, 1994.

Farm deer six months of age or over must also be tested negative for Brucellosis within 90 days of exhibition, or originate from a Certified Brucellosis-Free Cervid Herd, or a Cervid Class Free Status State (Brucellosis). This negative status must be determined by Brucellosis tests approved for cattle and bison and tested in a cooperative state-federal laboratory.

All Cervidae must have been part of the herd of origin for at least one year or were natural additions, or must have originated from a chronic wasting disease monitored or certified herd in which these animals have been kept for at least one year or were natural additions. Cervidae originating from a herd with a diagnosis, signs, epidemiological evidence, or area under quarantine for chronic wasting disease may not be exhibited.

64.35(7) *The decision of the show veterinarian shall be final.*

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

ARC 2319B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The purpose of the proposed amendments is to modify the definitions of "monitored CWD cervid herd" and "official cervid identification" for farm deer enrolled in the chronic wasting disease (CWD) surveillance and monitoring program, and to require the CWD herd status to revert to the status of any new animal additions if the status of the animal(s) added is lower than the herd status prior to the addition. The proposed amendments also change the requirements for obtaining a certified herd status from four years to five years to more closely conform to proposed federal standards. The proposed amendments also modify the import requirements for Cervidae into Iowa to provide additional safeguards to protect the Iowa farm deer industry.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on March 26, 2003. Such written materials should be directed to Dr. John Schiltz, State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-4282. E-mail comments may be sent to John.Schiltz@idals.state.ia.us.

No waiver provision is included in these proposed amendments because an existing rule allows for waivers in ap-

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

propriate cases. The waiver rule also applies to these proposed amendments.

These amendments are intended to implement Iowa Code chapter 163.

The following amendments are proposed.

ITEM 1. Amend rule **21—64.104(163)** by amending the definitions for “monitored CWD cervid herd” and “official cervid identification” as follows:

“Monitored CWD cervid herd” means a herd of Cervidae that is in compliance with the CCWDSI program as defined in this rule. Monitored herds are defined as one-year, two-year, three-year, ~~and~~ four-year, *and five-year* monitored herds in accordance with the time in years such herds have been in compliance with the CCWDSI program.

“Official cervid identification” means *one of the following*:

1. ~~a~~ A USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system as defined in 9 CFR Part 71.1, Chapter 1, revised as of January 1, 2000.

2. *A plastic or other material tag that includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.*

3. *A legible tattoo which includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.*

ITEM 2. Amend rule 21—64.106(163) by adding a **new** subrule as follows:

64.106(3) Identification. Effective June 1, 2003, animals not identified with a tattoo must be identified with two forms of official identification.

ITEM 3. Amend subrule 64.113(2) as follows:

64.113(2) Upon request and with proof by records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program for a period of ~~four~~ *five* years.

ITEM 4. Amend rule 21—64.115(163) as follows:

21—64.115(163) Movement into a certified CWD cervid herd.

64.115(1) Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd *with no change in the status of the herd of destination.*

64.115(2) ~~Animals~~ *The movement of animals* originating from noncertified ~~or lesser status~~ herds ~~that are moving~~ into certified CWD cervid herds ~~cannot be certified until they remain in the certified CWD cervid herd for four years~~ *will result in the redesignation of the herd of destination to the lesser status.*

~~**64.115(3)** Animals originating from CWD monitored herds cannot be certified until a combination of the years in CWD monitored status and the years present in the certified CWD herd totals four years.~~

ITEM 5. Amend rule 21—64.116(163) as follows:

21—64.116(163) Movement into a monitored CWD cervid herd.

64.116(1) Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status.

64.116(2) ~~Animals~~ *The movement of animals* originating from a herd which is not a monitored CWD cervid herd or

from a lower status monitored CWD cervid herd will ~~progress annually in status level on an individual animal basis until completion of CWD certification~~ *result in the redesignation of the herd of destination to the lesser status.*

ITEM 6. Amend rule 21—64.117(163) as follows:

21—64.117(163) Recognition of monitored CWD herds.

The state veterinarian shall issue a monitored CWD cervid herd certificate, including CWD monitored herd status as CWD monitored Level A during the first calendar year, CWD monitored Level B during the second calendar year, CWD monitored Level C during the third calendar year, CWD monitored Level D during the fourth calendar year, *CWD monitored Level E during the fifth calendar year*, and CWD certification at the *completion of the fifth year* and thereafter.

ITEM 7. Amend rule 21—64.119(163) as follows:

21—64.119(163) Intrastate movement requirements.

64.119(1) All intrastate movements of Cervidae other than to a state or federally inspected slaughter establishment shall be accompanied by an intrastate movement certificate of veterinary inspection signed by a licensed, accredited veterinarian. *Movement, other than direct movement to slaughter, shall only be allowed from herds that have satisfactorily completed at least one year in the Iowa CWD monitoring program.*

64.119(2) Such intrastate movement certificate shall include all of the following:

a. Consignor’s name and address.

b. Consignee’s name and address.

c. Individual, *official* identification of each animal ~~by an official ear tag.~~

d. ~~The following statement: “There has been no diagnosis, signs, or epidemiologic evidence of CWD in this herd for the past year.”~~ *CWD herd premises number, the herd status level, the anniversary date, and the expiration date.*

ITEM 8. Amend rule 21—64.120(163) as follows:

21—64.120(163) Import requirements. *For the purpose of this rule, Cervidae shall mean all animals belonging to the Cervidae family. Movement, other than direct movement to slaughter, shall only be allowed from herds which have satisfactorily completed at least two years in an official, recognized CWD monitoring program.*

64.120(1) All Cervidae entering Iowa must be accompanied by all of the following:

a. An official ~~certificate~~ *Certificate of veterinary inspection* *Veterinary Inspection.*

b. A permit number requested by the licensed, accredited veterinarian signing the certificate and issued by the state veterinarian prior to movement. *The permit number must be recorded on the certificate.*

c. ~~One of the~~ *The following statements* *statement* must appear on the certificate:

“All Cervidae on this certificate have been part of the herd of origin for at least one year or were natural additions to this herd. There has been no diagnosis, signs, or epidemiologic evidence of CWD in this herd for the past year”; or

“All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiologic evidence of CWD in this herd for the past year.”

d. *The CWD herd number, anniversary date, expiration date and herd status for each individual animal must be listed on the Certificate of Veterinary Inspection. Each animal*

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

must be officially identified, and all forms of identification must be listed on the certificate.

64.120(2) ~~If the Cervidae listed on the certificate are enrolled in a CWD program, the anniversary date and program status for each individual animal must be listed. Cervidae originating from an area considered to be endemic for chronic wasting disease shall not be allowed entry into Iowa. Cervidae that originate from a herd that has had animal introductions from an area endemic to chronic wasting disease during the preceding five years shall not be allowed entry into Iowa.~~

NOTICE—CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of January 23, 2003, is approximately \$874,250.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the abovementioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 2298B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 11, “State of Iowa Scholarship Program,” Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 11, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)“a” and “b” and chapter 261.

The following amendments are proposed.

Amend **283—Chapter 11** as follows:

CHAPTER 11

STATE OF IOWA SCHOLARSHIP PROGRAM

283—11.1(261) A state-supported and administered scholarship program.

11.1(1) Application requirements. ~~All~~ An Iowa high school ~~graduates graduate~~ who ~~rank ranks~~ in the upper 15 percent of ~~their the~~ graduate’s graduating class at the end of ~~their the~~ graduate’s junior year and who ~~take takes~~ a national test, as designated by the commission, during the period specified by the commission, ~~are is~~ eligible to apply for ~~the~~ recognition as a state of Iowa scholar ~~recognition awards~~.

11.1(2) Eligibility for scholarship. An applicant for a state of Iowa scholarship must meet the following initial requirements:

a. Be a resident of Iowa according to rule 681—1.4(262), as established by the board of regents and adopted by the commission.

b. Release test scores, rank in class, and curriculum information to the commission on a form specified by the commission, with date of receipt *on or before the deadline established* by the commission as stated in the application instructions. In the case of an applicant who has earned a general equivalency diploma, class rank will be waived and academic potential will be judged on the basis of test scores alone.

11.1(3) Eligibility for monetary scholarship. ~~Having qualified After a scholar qualifies~~ academically and is *designated* as a state of Iowa scholar, ~~an applicant a scholar~~ must meet the following requirements to receive a monetary award:

a. Complete requirements for the high school diploma or its equivalent by the end of the summer preceding entrance into college.

b. ~~Plan to enroll~~ *Enroll* as a full-time freshman student at an approved college, university, or other postsecondary institution *located in Iowa in the academic year following receipt of a high school diploma or its equivalent*. Applicants who have fulfilled requirements for the freshman year of college, either by advanced placement examination or by entry into college prior to receipt of a high school diploma *and students who plan alternative education programs (e.g., study abroad, exchange program, internship program) which may delay the regular academic period*, will be considered for awards on an individual basis. ~~The same is true of a student who plans an alternative education program (e.g., study abroad, exchange program, internship program) which may delay the regular academic period.~~

“Located in Iowa” means a college or university that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

c. ~~A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the state of Iowa scholarship program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapter 5.~~

d. A recipient may request a leave of absence for a maximum of one calendar year if illness, financial circumstances,

COLLEGE STUDENT AID COMMISSION[283](cont'd)

or other reasons beyond the recipient's control prevent enrollment or force withdrawal from college.

11.1(4) Criteria for awards. Academic rank of an applicant is determined by two factors: percentile rank in high school class and scores on the designated standard national test ~~will be~~. *These factors are weighed equally to produce an academic index score. The commission determines the minimum academic index score, based on a descending ranking of the applicants. Approximately 2,000 students will be designated as scholars.*

11.1(5) Monetary awards.

a. Awards are prorated on a quarterly or semester basis and are paid directly to the ~~institution~~ *college or university* on the ~~student's scholar's~~ behalf after the recipient's attendance has been certified.

b. The award will be applied to the scholar's college expenses, which include tuition and mandatory fees, room and board, and a uniform allowance established by the commission for other college-related costs.

c. If a ~~recipient~~ *scholar* is dismissed or withdraws from college before completion of the term, the award, or portion thereof, shall be refunded to the state of Iowa in conformity with the ~~institution's accepted~~ *college's or university's published* policy of refunds.

d. A scholarship may be transferred from one participating institution to another. The ~~appropriate institutions~~ *institution to which the scholar transfers* shall notify the commission of the change.

11.1(6) Eligible institutions. The following categories of Iowa postsecondary institutions are eligible to participate in the state of Iowa scholarship program.

a. ~~Institutions holding accreditation~~ *Colleges and universities accredited* by the North Central Association of Colleges and ~~Secondary Schools~~.

b. State-supported area community colleges and ~~vocational-technical schools accredited by the state department of education~~.

c. Accredited schools of professional nursing.

d. Institutions which, in the absence of one of the above accreditations, are registered as nonprofit educational institutions with the corporations division of the secretary of state and are eligible for participation in the *federal Pell Grant Program*. ~~or have fulfilled the requirements for Iowa tuition grant participation set forth in Iowa Code section 261.9(5), paragraphs "b" and "c."~~

~~**11.1(7)** Renewal of state scholarship. Rescinded IAB 2/15/95, effective 3/22/95.~~

This rule is intended to implement Iowa Code sections 261.3 and 261.15.

ARC 2297B**COLLEGE STUDENT AID
COMMISSION[283]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chap-

ter 12, "Iowa Tuition Grant Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules in the chapter, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 11, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend **283—Chapter 12** as follows:

CHAPTER 12**IOWA TUITION GRANT PROGRAM****283—12.1(261) Tuition grant based on financial need to Iowa residents enrolled at eligible private institutions of postsecondary education in Iowa.**

12.1(1) Financial need. The need of an applicant for financial assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on ~~forms~~ *a form* designated by the commission. *For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need.* The ~~form~~ *FAFSA* must be received by the processing agent by the date specified in the application instructions.

12.1(2) Tuition and mandatory fees. Tuition and mandatory fees shall be defined as those college costs paid annually by all students enrolled on a full-time basis, ~~such costs to be~~ *as reported annually to the commission by each participating institution college or university.*

12.1(3) Student eligibility. A recipient must be an Iowa resident ~~who is~~ enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree from an eligible ~~Iowa institution~~ *college or university located in Iowa*. A recipient may receive this grant for summer enrollment if the recipient is enrolled in an ~~institutionally defined~~ *commission-approved* accelerated academic program. ~~Schools shall submit to the commission for staff approval written plans outlining an accelerated academic program prior to making summer awards.~~ The criteria used by the state board of regents to determine residency for tuition purposes, ~~IAC 681—1.4(262)~~, are adopted for this program.

~~**12.1(4)** Self-supporting applicants. For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.~~

12.1(5) (4) Priority for grants. Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses, and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

12.1(6) (5) Award notification. A grant recipient is notified of the award by the ~~educational institution(s)~~ *college or university* to which application is made. Any award notifica-

COLLEGE STUDENT AID COMMISSION[283](cont'd)

tion provided by a candidate ~~institution~~ college or university or an ~~institution~~ a college or university on probation with the accrediting agency must be made contingent upon the ~~institution~~ college's or university's maintaining affiliation with the accrediting agency. The ~~institution(s)~~ college or university is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The ~~institution~~ college or university reports changes of in student eligibility to the commission.

12.1(7) (6) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate ~~institution(s)~~ college or university of any change in enrollment or financial situation. The ~~educational institution~~ college or university will make necessary changes and notify the commission.

12.1(8) (7) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedure set forth in 283—~~Chapter~~ Chapters 4 and 5. Credits that a student receives through "life experience credit" and "credit by examination" are not eligible for tuition grant funding.

This rule is intended to implement Iowa Code sections 261.15(2) and 261.16(3).

283—12.2(261) Tuition grant institutional eligibility requirements.

12.2(1) Methods of gaining institutional eligibility under Iowa Code section 261.9. An Iowa ~~institution~~ college or university requesting participation in the Iowa tuition grant program must apply to the college student aid commission ~~utilizing~~ using the commission's designated application.

The applicant ~~institution~~ seeking to participate in the Iowa tuition grant program (Iowa Code section 261.9, et seq.) must:

- Be accredited by the North Central Association of Colleges and Schools (NCA); or
- Be certified by the NCA as a candidate for accreditation; or
- Be a school of nursing accredited by the National League for Nursing and approved by the board of nurse examiners, including one operated, controlled, and administered by a county public hospital; and
- Be located in Iowa. "Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

12.2(2) Processing institutional applications. ~~Institutional~~ ~~applicant~~ Application forms shall will be provided by the commission.

The applicant ~~institution~~ shall ~~furnish~~ will provide to the commission supporting documentation establishing accreditation or the accreditation plans of the ~~institution~~ applicant.

If applicant attempts to qualify for the tuition grant program under paragraph 12.2(1)"e" above, applicant shall provide to the commission a copy of the official transcript issued by applicant for any student used pursuant to paragraph

12.2(1)"e" "4" as an example of the transfer of credits earned as applicant to an NCA accredited institution.

The applicant ~~institution~~ must submit its application by January 1. ~~so that~~ If approved by the commission on January 2 of the following year, ~~its~~ the applicant's students may begin submitting need analysis applications forms for the following academic year.

Colleges and universities shall submit to the commission, for staff approval, written plans outlining accelerated academic programs prior to making summer awards. "Accelerated program" is an academic program, defined by the college or university, which allows students to complete the program of training in less than the normal prescribed time period. An accelerated program may be defined for a set group of students or may be a self-directed program in which a student has received approval from the appropriate officials of the college or university.

~~Applications received by the commission will be submitted to the committee of NCA registrars selected by the commission. The committee will be asked to review the application to verify that the requirements for credit transfer of these rules have been satisfied.~~

12.2(3) Notice of change of status. Any ~~institution~~ college or university which (a) loses NCA or National League for Nursing accreditation, (b) or ceases to be a candidate for NCA accreditation, ~~must immediately notify the commission.~~ (c) ceases to be a school giving satisfactory assurance that it has the potential for accreditation and is making progress toward accreditation, or (d) becomes aware that its credits are no longer being accepted by three NCA institutions previously identified to the commission pursuant to paragraph 12.2(1)"e" above shall so notify the commission immediately. Failure to comply with this notice of change requirement will be justification for revocation of eligibility.

12.2(4) Definitions.

"Accelerated program" is an academic program, defined by the institution, which allows the student to complete the program of training in less than the normal prescribed time period. An accelerated program may be defined for a set group of students or may be a self-directed program in which the student has received approval from the appropriate officials of the institution.

"Applicant" is an educational institution seeking to participate in the Iowa tuition grant program (Iowa Code section 261.9, et seq.).

"Credit" is hourly academic credit granted for completed coursework at applicant, and accepted for transfer by an NCA accredited institution. "Life experience credit" and "credit by examination" do not constitute credit for the purposes of these rules.

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

12.2(5) (4) Review of eligibility.

a. The commission shall periodically, at least every three years, investigate and review compliance of institutions participating in the tuition grant program with criteria described in Iowa Code section 261.9 and this rule.

b. If the commission finds that an ~~institution~~ a college or university fails to comply with the provisions of Iowa Code section 261.9 and this rule, participation in the tuition grant program shall be suspended.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

12.2(6) (5) Affirmative action. Every ~~institution college or university which participates~~ participating in the Iowa tuition grant program shall submit, each December, ~~an affirmative action~~ a report which ~~will include includes existing and proposed plans for recruitment and retention of minority students~~ student and minority faculty members and nontraditional students. ~~information, The report shall also include statistics on minority enrollment and employment information, and other information as outlined in 1988 Iowa Acts, chapter 1284, section 23, paragraph "f," subparagraphs (1) and (5) required by the commission as described in Iowa Code sections 261.9 through 261.16.~~

~~This rule is~~ These rules are intended to implement Iowa Code chapter 261.

ARC 2296B

COLLEGE STUDENT AID
COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 13, "Iowa Vocational-Technical Tuition Grant Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules in the chapter, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing, by 4:30 p.m. on March 11, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend **283—Chapter 13** as follows:

CHAPTER 13

IOWA VOCATIONAL-TECHNICAL
TUITION GRANT PROGRAM

283—13.1(261) Tuition grant based on financial need to Iowa residents enrolled in vocational or technical (career education) programs at community colleges in the state.

13.1(1) Financial need.

a. Financial need is defined as the lesser of the difference between the average expenses for tuition, fees, and books and supplies, as determined by the commission, and the amount of the federal Pell Grant for which the student qualifies or the difference between the average total budget at a community college, as determined by the commission, and the expected family contribution.

b. Financial need shall be evaluated annually on the basis of a confidential financial statement filed on ~~forms~~ a form designated by the commission. *For the purposes of deter-*

mining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. which The FAFSA must be received by the processing agency agent by the priority dates date specified in the application instructions.

13.1(2) Student eligibility.

a. A recipient must be an Iowa resident. ~~The criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262), are adopted for this program. as defined by the Iowa department of education's "Iowa community college uniform policy on student residency status."~~

b. A recipient must be enrolled for at least three semester hours, or the trimester or quarter equivalent, in a vocational-technical or career option program *at an Iowa community college.*

c. A recipient may receive ~~moneys~~ an award under this program for liberal arts classes identified by the community college as required for completion of ~~the student's~~ a vocational-technical or career option program. A recipient must be concurrently enrolled in a vocational or technical (career education) program.

d. A full-time recipient may receive ~~moneys~~ an award under this program for not more than four semesters or the trimester or quarter equivalent of two full years of study. A part-time recipient may receive ~~moneys~~ an award under this program for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study. A recipient who is making satisfactory progress but cannot complete the course because of required liberal arts classes may receive the grant for one additional enrollment period.

e. A full-time recipient may receive no more than the amount specified by Iowa law or the amount of the student's established financial need, whichever is less. A part-time recipient's award shall be a prorated portion of the full-time award. The proration will be established by the commission in a manner consistent with federal Pell Grant Program proration. Part-time recipients taking from 3 to 5 credit hours will receive awards equal to one-fourth of the full-time award; recipients taking from 6 to 8 credit hours will receive awards equal to one-half of the full-time award; and recipients taking from 9 to 11 credit hours will receive awards equal to three-fourths of the full-time award.

f. A recipient may again be eligible for ~~moneys~~ an award under 13.1(2)"d" if the recipient resumes study after at least a two-year absence, except for coursework for which credit was previously received.

~~**13.1(3) Self-supporting applicants.** For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.~~

13.1(4) (3) Priority for grants. Applicants who apply by the priority date specified in the application are ranked in order of the estimated amount of the ~~student's family~~ family's contribution toward college expenses; and awards are granted to those who demonstrate need in order of family contribution from lowest to highest, insofar as funds permit. ~~If funding appropriated for second-priority applicants is insufficient to assist all full-need applicants who apply by the second priority date specified in the application, each community college will be provided an allocation based on the~~

COLLEGE STUDENT AID COMMISSION[283](cont'd)

~~percent of total funds received during the prior year. Community college officials will identify recipients using criteria established by the commission.~~

~~13.1(5) (4)~~ Award notification. A grant recipient is notified of the award by the ~~educational institution(s) community college~~ to which application is made. The ~~institution(s) community college~~ is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The ~~institution community college~~ reports changes of ~~in~~ student eligibility to the commission.

~~13.1(6) (5)~~ Full year of study. For purposes of this program, the commission has defined "full year of study" as either four quarters or two semesters ~~plus a summer session~~. Grant payments are prorated according to this definition.

~~13.1(7) (6)~~ Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate ~~institution(s) community college~~ of any change in enrollment or financial situation. The ~~educational institution community college~~ will make necessary changes and notify the commission.

~~13.1(8) (7)~~ Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa vocational-technical tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—~~Chapter Chapters 4 and 5~~.

This rule is intended to implement Iowa Code section 261.9(1) and Iowa Code section 261.17 as amended by 1999 Iowa Acts, Senate File 464, sections 29 and 30.

ARC 2295B

COLLEGE STUDENT AID
COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to rescind Chapter 17, "Iowa Summer Institute Program," Iowa Administrative Code.

This proposed amendment eliminates rules for a program for which there is no longer statutory authority and is made pursuant to Executive Order Number 8.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 11, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

This amendment is intended to implement Iowa Code chapters 17A and 261.

The following amendment is proposed.

Rescind and reserve 283—Chapter 17.

ARC 2294B

COLLEGE STUDENT AID
COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 19, "Accelerated Career Education Grant Program," Iowa Administrative Code.

The proposed amendments, which ensure consistency in terms and correct unclear wording and grammatical oversights, are made pursuant to Executive Order Number 8.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 11, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend 283—Chapter 19 as follows:

CHAPTER 19
ACCELERATED CAREER EDUCATION
GRANT PROGRAM

283—19.1(261) ACE grants. Educational grants based on financial need may be awarded to Iowa residents enrolled in accelerated career education (ACE) programs, filed with the Iowa department of economic development, at Iowa community colleges and serving targeted industries as designated by the Iowa department of economic development.

19.1(1) Student financial need.

a. Financial need shall be evaluated annually on the basis of a confidential financial statement, filed on forms designated by the commission ~~which must be received by the processing agency by the priority date specified in the application instructions.~~ For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. The FAFSA must be received by the processing agent by the date specified in the application instructions.

b. Financial need is defined as the difference between total program expenses at the community college the student plans to attend and the estimated amount of family resources available to pay for college, as determined by the commission. Need determination will include evaluation of all student financial aid received by the student including, but not limited to, federal Pell Grants, Iowa vocational-technical tuition grants, and institutional awards.

19.1(2) Student eligibility.

a. A recipient must be an Iowa resident. ~~A student who is determined to be in the state primarily for educational purposes shall be considered a nonresident. The commission will make final residency determinations using criteria developed for all state-funded scholarship and grant programs.~~

COLLEGE STUDENT AID COMMISSION[283](cont'd)

as defined by the Iowa department of education's "Iowa community college uniform policy on student residency status."

b. to f. No change.

19.1(3) to 19.1(6) No change.

19.1(7) Restrictions. A student who is in default on a Stafford Loan, ~~an~~ SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for accelerated career education grants. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—~~Chapter~~ **Chapters 4 and 5**.

This rule is intended to implement ~~2000 Iowa Acts, Senate File 2439, section 8~~ **Iowa Code section 261.22**.

ARC 2293B**COLLEGE STUDENT AID
COMMISSION[283]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 20, "Iowa National Guard Educational Assistance Program," Iowa Administrative Code.

The proposed amendments, which clarify wording and correct grammatical oversights as needed, are made pursuant to Executive Order Number 8. No material changes are recommended.

Interested persons may submit comments orally or in writing to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344, by 4:30 p.m. on March 11, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend rule 283—20.1(261) as follows:

283—20.1(261) Educational assistance to Iowa national guard members for undergraduate studies at eligible Iowa institutions. The adjutant general shall determine eligibility requirements and select program recipients. ~~and the~~ **The** decision of the adjutant general is final.

20.1(1) Guard member eligibility. A recipient must:

- Be a resident of Iowa, as defined by the adjutant general of Iowa, and a member of an Iowa army or air national guard unit throughout each term for which the member ~~has~~ **is** applied for ~~receives~~ benefits.
- Have satisfactorily completed required guard training.
- Have maintained satisfactory performance of guard duty.
- Have applied to the adjutant general of Iowa for program eligibility.

e. Be pursuing a certificate or undergraduate degree program at an eligible Iowa college or university and ~~maintain~~ **maintaining** satisfactory academic progress.

f. Provide notice of national guard status to the college or university at the time of registration.

20.1(2) Institutional eligibility. Guard members attending the following categories of ~~Iowa~~ colleges and universities ~~located in Iowa~~ are eligible to receive ~~moneys from~~ **awards** under this program:

a. Institutions accredited by the North Central Association of Colleges and ~~Secondary~~ **Schools (NCA)**.

b. State-supported area community colleges accredited by the state department of education.

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

20.1(3) Award notification. A guard member is notified of eligibility by the adjutant general of Iowa. The adjutant general will notify the Iowa college student aid commission (commission) of all eligible members. The commission will notify ~~the~~ Iowa colleges and universities of guard ~~members'~~ **member** eligibility.

20.1(4) Award limitations. Awards may be used for educational assistance including tuition and fees; room and board; books, supplies, transportation and personal expenses; dependent care; and disability-related expenses. Individual award amounts shall be determined by the adjutant general and shall be neither less than an amount equal to 50 percent of the resident tuition rate established for students attending regent institutions nor exceed the amount of the resident tuition rate established for students attending regent institutions.

20.1(5) Restrictions.

a. A guard member may use benefits only for undergraduate educational assistance.

b. A guard member who has met the educational requirements for a baccalaureate degree is not eligible for benefits.

c. A qualified full-time student may receive ~~tuition aid~~ **tuition aid** benefits for no more than ~~eight~~ **eight** 8 semesters of undergraduate study or the quarter or trimester equivalent. A qualified part-time student may receive ~~tuition aid~~ **tuition aid** benefits for no more than 16 semesters of undergraduate study or the quarter or trimester equivalent.

20.1(6) Verification and compliance.

a. The adjutant general will notify the commission of all eligible guard members. Changes in member eligibility will be sent to the commission within 30 days of the change.

b. The commission will notify eligible Iowa colleges and universities of guard ~~members'~~ **member** eligibility.

c. The commission will coordinate the collection and dissemination of eligibility and enrollment information received from the adjutant general and ~~the~~ colleges and universities.

d. The institution's financial aid administrator will be responsible for completing ~~necessary~~ **necessary** academic progress and enrollment verifications and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. ~~The colleges~~ **Colleges** and universities will report changes of ~~in students'~~ **student** enrollment to the commission within 30 days after the last day of the enrollment period.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

This rule is intended to implement Iowa Code section ~~261.24~~ 261.86.

ARC 2302B

COLLEGE STUDENT AID
COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 27, "Iowa Grant Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344, by 4:30 p.m. on March 11, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend rule 283—27.1(261) as follows:

283—27.1(261) State-supported grants. The Iowa grant program is a state-supported and administered grant based on financial need ~~to~~ for Iowa residents enrolled at approved institutions of postsecondary education in Iowa.

27.1(1) Definitions. As used in this chapter:

"Accredited higher education institution" means any public or private institution of higher learning located in Iowa ~~which~~ that is accredited by the North Central Association of Colleges and ~~Secondary~~ Schools (NCA).

"Financial need" means the difference between the student's financial resources, including resources available from the student's parents and the student, as determined by a completed parent's or student's financial statement, and the student's anticipated expenses while attending the accredited higher education institution. Any federal, state, institutional, ~~and~~ or private aid, other than work-study, shall also be considered an available resource. Financial need shall be determined at least annually *on the basis of a confidential financial statement filed on a form designated by the commission.* The application form must be received by the needs analysis processor by the deadline date specified by the commission.

"Full-time resident student" means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least 12 semester hours or the trimester or quarter equivalent. "Course of study" does not include correspondence courses.

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the de-

grees offered by the institution as well as a full range of student services.

"Part-time resident student" means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least three semester hours or the trimester or quarter equivalent. "Course of study" does not include correspondence courses.

"Qualified student" means a resident student who has established financial need and who is making satisfactory progress toward graduation *at an eligible Iowa institution.*

"Tuition and mandatory fees" means those college costs paid annually by all students enrolled on a full-time basis, ~~such costs to be as~~ reported annually to the commission by each participating institution.

27.1(2) Student eligibility. A recipient must be an Iowa resident ~~who is~~ enrolled for at least three semester hours or the trimester or quarter equivalent in a program leading to a degree from an eligible Iowa institution. The criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262), are adopted for this program.

~~**27.1(3) Self-supporting applicants.** For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.~~

27.1(4) (3) Award limits and eligibility requirements.

a. A grant may be awarded to any qualified person who is accepted for admission or is enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree from an approved, accredited higher education institution and who demonstrates financial need.

b. The annual amount of the grant to a full-time student shall not exceed a student's financial need ~~or \$1,000, which ever is less~~ or the maximum annual grant, whichever is less.

c. The maximum amount of a grant to a part-time student shall be prorated by dividing the maximum ~~yearly~~ annual grant amount by 24 semester hours or the trimester or quarter equivalent, and multiplying that amount by the number of hours the student is enrolled.

d. Grants shall be awarded on an annual basis and shall be credited by the institution against the student's tuition, fees, and room and board charges at the beginning of each term in equal installments upon certification that the eligible student is enrolled.

e. ~~If a credit balance remains~~ after crediting the amount of the grant to the student's tuition, fees, and, if applicable, room and board charges, ~~a credit balance remains~~, the institution may distribute the grant balance to the student who may use the proceeds for other bona fide education expenses such as books, equipment, and transportation.

f. If a student receiving a grant under the program discontinues attendance before the end of any academic period, but after receiving payment of grant funds for the academic period, the entire amount of any refund due the student, up to the amount of any payments made by the state, shall be distributed as follows:

(1) If an initial institutional allocation was made and funds are available due to the refund, the institution may offer additional awards, but in no case may an institution exceed its annual allocation.

(2) If institutional allocations are not made, then any refunds must be returned to the commission.

~~**27.1(5) (4) Extent of grant.**~~ A qualified full-time student may receive grants for not more than 8 semesters of undergraduate study or the trimester or quarter equivalent. A qual-

COLLEGE STUDENT AID COMMISSION[283](cont'd)

ified part-time resident student may receive grants for not more than 16 semesters of undergraduate study or the trimester or quarter equivalent.

27.1(6) (5) Application process.

a. Eligible students shall apply for this grant through the use of an approved financial aid form, which uses the federally accepted method of needs analysis. *For the purpose of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need.*

b. Institutions shall coordinate aid packages to ensure that this grant program supplements rather than supplants federal and institutional gift aid awards and shall report need figures to the commission.

c. The institution shall clearly identify the Iowa grant on the student's aid award notice.

d. A student shall accept all available federal and state grants before being considered for grants under this program.

27.1(7) (6) Full year of study. For purposes of this program, the commission has defined full year of study as either three quarters or two semesters. Grant payments are prorated according to this definition.

27.1(8) (7) Priority for grants.

a. Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses; and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

b. Funds will be allocated to the sectors according to the appropriations language.

~~c. If funds are insufficient to pay all approved grants, applicants who have the greatest demonstrated financial need, based on a total family contribution, will receive priority assistance.~~

~~d. If funds are insufficient to help all students with no means of contribution to their educational expenses, institutional allocations will be made based on that institution's applicant profiles as a percentage of the total sector profiles, and institutional aid administrators will be called on to select students to receive grants.~~

27.1(9) (8) Award notification. A grant recipient is notified of the award by the educational institution to which application is made. Any award notification provided by an institution on probation with the accrediting agency must be made contingent upon the institution's maintaining affiliation with the accrediting agency. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The institution reports changes of student eligibility to the commission.

27.1(10) (9) Award transfers and adjustments.

a. Awards may be transferred among eligible institution(s) unless funding limitations require institutional allocations.

b. Recipients are responsible for promptly notifying the appropriate institution of any change in enrollment or financial situation. The educational institution will make necessary changes and notify the commission.

27.1(11) (10) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa grant program. Eligibility for state aid may be reinstated upon payment in full of the delin-

quent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedure set forth in 283—~~Chapter~~ *Chapters 4 and 5*, Iowa Administrative Code.

27.1(12) (11) Institutional reporting. The commission will monitor the program according to this chapter and will require participating postsecondary institutions that receive funds for enrolled students to furnish any information necessary for the implementation or administration of the program.

This rule is intended to implement Iowa Code sections 261.93 and 261.97.

ARC 2311B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

This amendment clarifies the criteria for an individual who wishes to convert an initial license to a standard license. It also clarifies the criteria for individuals who have teaching experience in a nonpublic school or from out-of-state and who desire a standard license. This amendment aligns wording pertaining to evaluation of new teachers with the rules submitted by the Department of Education. This amendment is intended to implement 2001 Iowa Acts, chapter 161 [Senate File 476], which establishes Iowa Code chapter 284.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Tuesday, March 18, 2003, at 1 p.m. in Room 2 South of the Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 21, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Direc-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

tor, Board of Educational Examiners, at the above address, or sent by E-mail to anne.kruse@ed.state.ia.us.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.112(272) as follows:

282—14.112(272) Requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Completes items “1” to “5” listed under 282—14.111(272).

2. Shows evidence of successful completion of a state-approved *mentoring and induction program by meeting the Iowa teaching standards as determined by a comprehensive evaluation or an approved alternative option or two years' successful teaching experience based on a local evaluation process. In lieu of this evidence, the applicant must provide evidence of three years' successful teaching experience in a nonpublic school or three years' successful teaching experience within the last five years in an out-of-state K-12 educational setting.*

3. Meets the recency requirement of 14.115“3.”

Renewal requirements for this license are set out in 282—Chapter 17.

ARC 2307B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board gives Notice of Intended Action to amend Chapter 2, “Fees and Charges,” Iowa Administrative Code.

This amendment revises the fee structure for engineering and land surveying licensure.

Any interested person may make written or oral suggestions or comments on this proposed amendment on or before March 11, 2003. Comments should be directed to Glean Coates, Executive Officer, Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; telephone (515)281-7360.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14 and 542B.15.

The following amendment is proposed.

Amend rule 193C—2.1(542B) as follows:

193C—2.1(542B) General statement. Fees are fixed in such an amount as will defray the expense of administering board responsibilities. Fees are charged in accordance with the following table:

Type of fee	Amount
Renewal	
Active license renewal	\$60 100
Inactive license renewal	\$30 40
Reinstatement of lapsed license	\$100
Reinstatement of inactive to active license	\$30 60
New license	\$60 100 Prorated at six-month intervals
Application for examinations	
Fundamentals of Engineering	\$25
Fundamentals of Land Surveying	\$25 30
Principles and Practice of Engineering	\$35 45
Principles and Practice of Land Surveying	\$35 45
Examinations	
Fees for NCEES examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses.	Variable
Iowa State Specific Land Surveying Examination	\$25 30
Application for licensure by comity as a professional engineer or land surveyor	\$100 150
Certificates	
Initial professional engineer or land surveyor certificate	\$10 15
Additional or duplicate certificate	\$20 25
Engineer or land surveyor intern certificate	No charge
Check returned for insufficient funds	\$10 15
Verification of records for lapsed licensees	\$10 15 per verification
Processing of exam rescoring request	\$25 per item, plus any NCEES fee
Late renewal fee (for renewals received after December 31)	\$10 25

ARC 2317B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments clarify existing policies regarding contested case proceedings. The need for these changes was identified through the rule assessment mandated by Executive Order Number 8. These amendments:

- Rewrite and expand the definition of “aggrieved person.”
- Update the definitions of “agency,” “appeal,” “contested case,” “due process,” “presumption,” “PROMISE JOBS discrimination complaint,” “PROMISE JOBS displacement grievance,” and “timely notice period.”
- Add definitions for “administrative hearing,” “appeals section,” “attribution appeal,” “ex parte communication,” “food stamp administrative disqualification hearing,” “intentional program violation,” “presiding officer,” and “reconsideration.”
- Add policies on conducting disqualification hearings for food stamps.
- Remove policies on disqualification hearings for the Family Investment Program, since those policies have not been implemented.
- Expand the rule defining the situations when the Department will not grant a hearing on an appeal request.
- Clarify the timeliness standards for different kinds of appeals.
- Clarify standards for adequate and timely notices of action.
- Update addresses, organizational units, form names, and cross references.

Other than the provision in 441—paragraph 7.5(4) “b” on exceptions to the timeliness standards, these amendments do not provide for waivers in specified situations because due process standards and contested case procedures should be uniform as a matter of fairness. Individuals who feel disadvantaged by a particular policy may request an exception under the Department’s general rule at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 12, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 17A.12 and 17A.15.

The following amendments are proposed.

ITEM 1. Amend rule **441—7.1(17A)** as follows:

Amend the definitions of “agency,” “appeal,” “contested case,” “due process,” “presumption,” “PROMISE JOBS discrimination complaint,” “PROMISE JOBS displacement grievance,” and “timely notice period” as follows:

“Agency” means the Iowa department of human services, including any of its local, ~~district~~, institutional, or central administrative offices.

“Appeal” denotes a review and hearing request made by ~~an appellant of a person who is affected by~~ a decision made by the agency or its designee. An appeal shall be considered a contested case within the meaning of Iowa Code chapter 17A.

“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under ~~1998 Iowa Acts, chapter 1202, section 14~~ Iowa Code section 17A.10A.

“Due process” denotes the ~~rights~~ right of a person affected by an agency decision to ~~present a complaint~~ receive a notice of decision and an opportunity to be heard at an appeal hearing and to be heard, by testimony or otherwise, and to have

~~the right of controverting, by proof, every material fact which bears on the questions of the person’s rights in the matter involved without undue delay or hindrance present an effective defense.~~

“Presumption” denotes an inference ~~drawn from as to the existence of a particular fact or facts not known or drawn from particular evidence, which stands until the truth of the inference is disposed facts that are known.~~

“PROMISE JOBS discrimination complaint” means any written complaint filed in accordance with the provisions of rule 441—7.8(17A) by a PROMISE JOBS participant or the participant’s representative which alleges that an adverse action was taken against the participant on the basis of race, *creed, color*, sex, national origin, religion, age, *physical or mental disability*, or ~~a handicapping condition~~ *political belief*.

“PROMISE JOBS displacement grievance” means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives which alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers described in ~~subrule 93.21(3) rule 441—93.144(239B).~~

“Timely notice period” is the time from the date a notice is mailed to the effective date of action. That period of time shall be at least ten calendar days, except in the case of probable fraud of the appellant. When probable fraud of the appellant exists, “timely notice period” shall be at least five calendar days from the date a notice is sent by certified mail. ~~When a license, approval, or certification issued by the department is to be revoked, timely notice period is 30 calendar days from the date a notice is mailed.~~

Rescind the definition of “aggrieved person” and adopt the following ~~new~~ definition in its place:

“Aggrieved person” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. For financial assistance (including the family investment program, refugee cash assistance, child care assistance, diversion, emergency assistance, family or community self-sufficiency grants, family investment program hardship exemptions, and state supplementary assistance dependent person, in-home health related care, and residential care facility benefits), a person:

- Whose request to be given an application was denied.
- Whose application for assistance has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a suspension, reduction, or cancellation of assistance.
- Who contests the assignment or change of a protective payee.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

2. For food stamps, a person:

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a suspension, reduction, or cancellation of benefits.
- Whose request to replace benefits that were lost in the mail has been denied.

HUMAN SERVICES DEPARTMENT[441](cont'd)

• Who has been notified that an overpayment of benefits has been established and repayment is requested.

3. For Medicaid, healthy and well kids in Iowa, and waiver services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who has been notified that level of care requirements have not been met.

• Who has been aggrieved by a failure to take into account the appellant’s choice in assignment to a coverage group.

• Who contests the effective date of assistance, services, or premium payments.

• Who contests the amount of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, or the spenddown amount under the medically needy program.

• Who contests the amount of client participation.

• Whose claim for payment or prior authorization has been denied.

• Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.

• Who has received notice from the Medicaid hotline that services not received or services for which an individual is being billed are not payable by Medicaid.

• Who has been notified that there will be a suspension, reduction, or cancellation of assistance or waiver services.

• Who has been notified that an overpayment of benefits has been established and repayment is requested.

4. For social services, including, but not limited to, adoption, foster care, rehabilitative treatment and supportive services, a person (see numbered paragraph “7” for providers):

• Whose request to be given an application was denied.

• Whose application for services or payment for adoption subsidy or foster care has been denied or has not been acted on in a timely manner.

• For whom it is determined that the person must participate in a service program.

• Whose social work case manager failed to make a referral to the review organization for the rehabilitative treatment services requested or who is dissatisfied with the necessity, amount, duration, or scope of services as authorized by the review organization. Providers and referral workers who are dissatisfied with the authorized amount, duration, or scope of rehabilitative treatment services shall not be considered aggrieved persons.

• Whose claim for payment of services has been denied.

• Who has been notified that a protective or vendor payment will be established.

• Who has been notified that there will be a suspension, reduction, or cancellation of services.

• Who has been notified that an overpayment of benefits has been established and repayment is requested.

• Who applies for an adoption subsidy after the adoption has been finalized.

• Who alleges that the adoptive placement of a child has been denied or delayed when an adoptive family is available outside the jurisdiction with responsibility for handling the child’s case.

5. For child support recovery, a person:

• Who is not entitled to a support payment in full or in part because of the date of collection, as provided under 441—subrules 95.3(1) through 95.3(3), or whose dispute based on the date of collection has not been acted on in a timely manner.

• Who is contesting a claim or offset as provided in 441—subrule 95.6(3), 95.7(8), or 98.81(3) by alleging a mistake of fact. “Mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral or submission. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

• Whose name has been certified for passport sanction as provided in Iowa Code section 252B.5.

• Who has been notified that there will be a termination in services as provided in rule 441—95.14(252B).

6. For PROMISE JOBS, a person:

• Whose claim for participation allowances has been denied, reduced, or canceled.

• Who claims that the contents of the family investment agreement are not sufficient or necessary for the family to reach self-sufficiency.

• Who is dissatisfied with the results of informal grievance resolution procedures, or who fails or refuses to receive informal grievance resolution procedures.

• Who has been notified that PROMISE JOBS services will be canceled due to imposition of a limited benefit plan.

• Who has been notified that an overpayment of benefits has been established and repayment is requested.

• Who alleges acts of discrimination on the basis of race, creed, color, sex, age, physical or mental disability, religion, national origin, or political belief.

• Who claims displacement by a PROMISE JOBS participant.

7. For providers, a person or entity:

• Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.

• Whose claim for payment as a provider or whose request for prior authorization of payment has been denied.

• Whose contract as a Medicaid patient manager has been terminated.

• That has been notified that an overpayment has been established and repayment is requested.

• That has been notified that the reconsideration process has been exhausted and that remains dissatisfied with the outcome.

• Whose claim for payment was not paid according to department policy. Providers of Medicaid services must accept reimbursement based on the department’s methodology without making any additional charges to the recipient.

8. For the child or adult abuse registry, juvenile sex offender registry or criminal records check evaluation, a person:

• Who has been denied expungement or correction of child abuse or adult abuse registry information.

• Who has been restricted or denied employment in a health care facility, state institution, or other facility based on a record check. “Employment” includes, but is not limited to, service as an employee, a volunteer, a provider, or a contractor. “Facilities” include, but are not limited to, county or multicounty juvenile detention homes and juvenile shelter care homes, child-placing agencies, substance abuse treatment programs, group living foster care facilities, child development homes, child care centers, state resource centers, mental health institutes, and state training schools.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Who is contesting a risk assessment decision as provided in rule 441—103.34(692A) by alleging that the risk assessment factors have not been properly applied, the information relied upon to support the assessment findings is inaccurate, or the procedures were not correctly followed.

9. For mental health and developmental disabilities, a person:

- Whose application for state payment program benefits or state community mental health or mental retardation service funds has been denied or has not been acted upon in a timely manner.
- Who has been notified that there will be a reduction or cancellation of state payment program benefits or state community mental health or mental retardation service funds.

Individuals and providers that are not listed above may meet the definition of an aggrieved person if the department has taken an adverse action against that individual or provider.

Adopt the following **new** definitions in alphabetical order:

“Administrative hearing” means a type of hearing that an appellant may elect in which the presiding officer reviews the written record only and makes a decision based on the facts available within the appeal file. An administrative hearing does not require an in-person or teleconference hearing. The final determination to establish whether an administrative hearing may be held will be made by the appeals section or the presiding officer.

“Appeals section” means the unit within the department of human services that receives appeal requests, certifies requests for hearing, and issues final appeal decisions.

“Attribution appeal” means an appeal to determine if additional resources can be allocated for the community spouse when the other spouse has entered a medical institution or is applying for home- and community-based waiver services. The result of the attribution appeal may affect Medicaid eligibility. An appellant may elect to have an attribution appeal held by administrative hearing.

“Ex parte communication” means written, oral, or other forms of communication between a party to the appeal and the presiding officer while an appeal is pending when all parties were not given the opportunity to participate.

“Food stamp administrative disqualification hearing” means a type of hearing used to determine if an individual fraudulently received benefits for which the individual was not eligible. A presiding officer shall determine if the individual will be banned from participating in the food stamp program for a period of time.

“Intentional program violation” means deliberately making a false or misleading statement; misrepresenting, concealing, or withholding facts; or committing an act that is a violation of the Food Stamp Act, food stamp program regulations, or any state rule relating to the use, presentation, transfer, acquisition, receipt, or possession of a benefit transfer instrument. An intentional program violation is determined through a food stamp administrative disqualification hearing.

“Presiding officer” means an administrative law judge employed by the department of inspections and appeals. The presiding officer may also be the department’s director or the director’s designee. The presiding officer has the authority to conduct appeal hearings and render proposed and final decisions.

“Reconsideration” means a review process that must be exhausted before an appeal hearing is granted. This includes, but is not limited to, a reconsideration request through the Iowa Foundation for Medical Care, Magellan Behavioral

Health Care, a health maintenance organization, a prepaid health plan, Medicaid patient management services, the managed health care review committee, a division or bureau within the department, the mental health and developmental disabilities commission, or the child or adult abuse registry. Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

ITEM 2. Amend rule 441—7.2(17A) as follows:

441—7.2(17A) Application of rules. Appeals and hearings for the food stamp program are governed by rules 7.10(17A) and 7.21(17A). ~~FIP disqualification hearings are governed by rule 7.22(17A).~~ All other appeals and hearings are governed by rules 7.1(17A) to 7.20(17A).

ITEM 3. Amend rule 441—7.3(17A) as follows:

441—7.3(17A) The administrative law judge Presiding officer. ~~The administrative law judge~~ Appeal hearings shall be conducted by ~~an administrative law judge~~ a presiding officer appointed by the department of inspections and appeals pursuant to ~~1998 Iowa Acts, chapter 1202, section 3~~ Iowa Code section 10A.801. The ~~administrative law judge~~ presiding officer shall not be connected in any way with the previous actions or decisions on which the appeal is made. Nor shall the ~~administrative law judge~~ presiding officer be subject to the authority, direction, or discretion of any person who has prosecuted or advocated in connection with that case, the specific controversy underlying that case, or any pending factually related contested case or controversy, involving the same parties.

ITEM 4. Amend rule 441—7.4(17A) as follows:

441—7.4(17A) Publication and distribution Notification of hearing procedures. Hearing procedures shall be published ~~and widely distributed~~ in the form of rules ~~or a clearly stated pamphlet~~, and shall be made available to all applicants, recipients, appellants, and other interested groups and individuals. *Procedures for hearings shall be identified in the notice of hearing issued to all parties as provided in subrule 7.10(7).*

ITEM 5. Amend rule 441—7.5(17A) as follows:

Amend subrule **7.5(2)** as follows:

Amend paragraph “a” by adopting **new** subparagraphs **(5)** through **(16)** as follows:

(5) Children have not been placed with or have been removed from a preadoptive family.

(6) A qualified provider has denied a person presumptive eligibility for Medicaid under 441—subrule 75.1(30) or 75.1(40).

(7) A qualified provider has determined a person to be presumptively eligible for Medicaid under 441—subrule 75.1(30) or 75.1(40), but presumptive eligibility ends due to the person’s failure to file an application.

(8) Notice has been issued from the Treasury Offset Program for a food stamp overpayment.

(9) A rate determination has been reviewed under rule 441—152.3(234).

(10) The maximum provider rate ceiling has been contested for child care assistance under 441—subrule 170.4(7).

(11) The risk pool board has accepted or rejected an application for assistance from the risk pool fund or the tobacco settlement fund risk pool fund in whole or in part under rules 441—25.66(426B) and 441—25.77(78GA, ch1221).

(12) The appellant has a complaint about child support recovery matters other than those described in numbered

HUMAN SERVICES DEPARTMENT[441](cont'd)

paragraph "5" of the definition of an aggrieved person in rule 441—7.1(17A).

(13) The appellant has a complaint about a local office employee (when this is the only issue of the appeal).

(14) A request for an exception to policy under 441—subrule 1.8(1) has been denied.

(15) A final decision from a previous hearing with a presiding officer has been implemented.

(16) Based on the doctrine of issue preclusion.

Amend paragraphs "d" and "f" as follows:

d. The appeal is filed prematurely as:

(1) ~~there~~ There is no adverse action by the department, or

(2) *The appellant has not exhausted the reconsideration process.*

f. The sole basis for denying, terminating or limiting assistance under 441—Chapter 47, Division I, II, ~~or~~ III, or IV, or 441—Chapter 58 is that funds for the respective programs have been reduced, exhausted, eliminated, or otherwise encumbered.

Adopt **new** paragraphs "g," "h," and "i" as follows:

g. The appellant is an "aggrieved party" as defined in rule 441—22.1(225C) and is eligible for a compliance hearing with the mental health and developmental disabilities commission in accordance with rule 441—22.5(225C).

h. The issue appealed is moot.

i. The issue appealed has previously been determined in another appeal by the same appellant.

Amend subrule 7.5(3) as follows:

7.5(3) Group hearings. The department may respond to a series of individual requests for hearings by requesting the department of inspections and appeals to conduct a single group hearing in cases in which the sole issue involved is one of state or federal law or policy or change in state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

Amend subrule **7.5(4)** as follows:

Amend paragraph "a" as follows:

a. ~~If in general, a hearing shall be held if the appeal is made within 30 days after official notification of an action, or before the effective date of action, a hearing shall be held.~~
Time limits for food stamps and offsets vary as follows:

(1) *For appeals regarding food stamps, a hearing shall be held if the appeal is made within 90 days after official notification of an action.*

(2) *For appeals regarding state or federal tax or debtor offsets, a hearing shall be held if the appeal is made within 15 days after official notification of the action. Counties have 30 days to appeal offsets, as provided in 441—paragraph 14.4(1) "e."*

Amend paragraph "b" as follows:

Amend the introductory paragraph as follows:

b. When the appeal is made more than 30 days (or more than 15 days for state or federal tax or debtor offsets); but less than 90 days after notification, the director shall determine whether a hearing shall be granted. The director may grant a hearing if one or more of the following conditions existed:

Amend subparagraph (4) as follows:

(4) There was a failure to receive the department's notification for a reason not attributable to the appellant. Lack of a forwarding address is attributable to the appellant. *A hearing may be granted if an appellant provides proof that a forwarding address was not supplied due to fear of domestic violence, homelessness, or other good cause.*

Amend subrule 7.5(6) as follows:

7.5(6) Appeals of family investment program (FIP) and refugee cash assistance (RCA) overpayments.

a. Subject to the time ~~limitations~~ *limits* described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of a FIP or RCA overpayment begins when the ~~person receives~~ *department sends* the first Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance, ~~Form 470-3489, Demand Letter for FIP/RCA Intentional Program Violation Overissuance,~~ or Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance, ~~from the department of human services,~~ informing the person of the FIP or RCA overpayment.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent Demand Letter for FIP/RCA Agency Error Overissuance, ~~Demand Letter for FIP/RCA Intentional Program Violation Overissuance,~~ or Demand Letter for FIP/RCA Client Error Overissuance.

c. Subject to the time ~~limitations~~ *limits* described in subrule 7.5(4), a person's right to appeal the recovery of an overpayment through benefit reduction, as described at rule 441—46.25(239B), but not the existence, computation, or amount of an overpayment, begins when the person receives Form 470-0485 or 470-0486, Notice of Decision, informing the person that benefits will be reduced to recover a FIP or RCA overpayment.

Amend subrule 7.5(7) as follows:

7.5(7) Appeals of Medicaid and state supplementary assistance (SSA) overpayments.

a. A person's right to appeal the existence and amount of a Medicaid or SSA overpayment begins when the ~~person receives~~ *department sends* the first Form 470-2891, Notice of Overpayment, Demand Letter for the Medicaid or State Supplementary Assistance Overpayment, ~~from the department of human services,~~ informing the person of the Medicaid or SSA overpayment, and is subject to the time ~~limitations~~ *limits* described in subrule 7.5(4).

b. *A hearing shall not be held if an appeal is filed in response to a second or subsequent Notice of Overpayment, Demand Letter for the Medicaid or State Supplementary Assistance Overpayment.*

Amend subrule 7.5(9) as follows:

7.5(9) Appeals of child care assistance benefit overissuances or overpayments.

a. Subject to the time ~~limitations~~ *limits* described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of a child care assistance benefit overissuance or overpayment begins when the ~~person receives~~ *department sends* the first Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance, or Form ~~470-3628~~ 470-3807, Demand Letter for Child Care Assistance Client Error Benefit Overissuance, ~~from the department of human services,~~ informing the person of the child care assistance overpayment.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent Demand Letter for Child Care Assistance Provider Error Overissuance or Demand Letter for Child Care Assistance Client Error Benefit Overissuance.

Adopt **new** subrule 7.5(10) as follows:

7.5(10) Appeals of food stamp overpayments.

a. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of a food stamp overpayment begins when the department sends the first Form 470-3486, Demand Letter for Food Stamp Intentional Program Violation Overissuance, or Form 470-3487, Demand Letter for Food Stamp Inadvertent

HUMAN SERVICES DEPARTMENT[441](cont'd)

Household Error Overissuance, informing the person of the food stamp overpayment.

b. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the recovery of an overpayment through benefit reduction, but not the existence, computation, or amount of an overpayment, begins when the person receives Form 470-0485 or 470-0486, Notice of Decision, informing the person that benefits will be reduced to recover a food stamp overpayment.

ITEM 6. Amend subrule 7.6(1) as follows:

7.6(1) Written and oral notification. The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status.

a. Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance:

~~a.~~ (1) The right to request a hearing.

~~b.~~ (2) The procedure for requesting a hearing.

~~c.~~ (3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.

~~d.~~ (4) Provisions, if any, for payment of legal fees by the department.

b. Written notification shall be given on the application form ~~and pamphlets prepared by the agency for applicants and recipients, and on all notices of decision. Explanation shall be included in the agency pamphlets explaining the various provisions of the program.~~ Oral explanation shall also be given regarding the policy on appeals during the application process and at the time of any contemplated action by the agency when the need for an explanation is indicated.

c. Persons not familiar with English shall be provided a translation into the language understood by them in ~~the written form of a written pamphlet~~ or orally. *Appellants are entitled to have an interpreter present during appeal hearings.* In all cases when a person is illiterate or semiliterate, the person shall, ~~in addition to receiving the written pamphlet on rights,~~ be advised of each right to the satisfaction of the person's understanding.

ITEM 7. Amend rule 441—7.7(17A) as follows:

Amend subrule 7.7(1) as follows:

Amend the introductory paragraph as follows:

7.7(1) Notification. Whenever the department proposes to ~~terminate, cancel, reduce, or suspend food stamps, financial assistance, Medicaid, or services or to revoke a license, certification, approval, registration, or accreditation,~~ it shall give timely and adequate notice of the pending action, except when a service is deleted from the state's comprehensive annual service plan in the social services block grant program at the onset of a new program year or as provided in subrule 7.7(2). *For the purpose of this subrule, "assistance" includes food stamps, Medicaid, the family investment program, refugee cash assistance, child care assistance, diversion, emergency assistance, family or community self-sufficiency grant, PROMISE JOBS assistance, and state supplementary assistance.*

~~Whenever the department proposes to approve or deny food stamps, financial assistance, Medicaid, or services, it shall give adequate notice of the action approval or denial of assistance or services; the approval or denial of a license, certification, approval, registration, or accreditation; and pending action for a state or federal tax or debtor offset.~~

Amend paragraph "b," subparagraph (3), as follows:

(3) The manual chapter number and subheading supporting the action ~~and the corresponding rule reference,~~

Amend subrule **7.7(2)** as follows:

Amend paragraph "f" as follows:

f. The county establishes that the recipient has been accepted for assistance in ~~a new jurisdiction~~ *another county or state.*

Adopt new paragraph "n" as follows:

n. The agency implements a mass change based on law or rule changes that affect a group of recipients.

Amend subrule 7.7(3) as follows:

7.7(3) Action due to probable fraud. When the agency obtains facts indicating that assistance should be ~~discontinued, canceled, suspended, terminated,~~ or reduced because of the probable fraud of the recipient, and, where possible, the facts have been verified through collateral sources, notice of the ~~grant adjustment action~~ *action* shall be timely when mailed at least five calendar days before the action would become effective. The notice shall be sent by certified mail, return receipt requested.

Amend subrule **7.7(5)** by adopting new paragraph "e" as follows:

e. When services of the community self-sufficiency grant project are available to all PROMISE JOBS participants as specified in 441—subrule 47.46(1).

Amend subrule 7.7(6) as follows:

7.7(6) Reinstatement.

a. Whenever the county office determines that a previously canceled case must remain canceled for a reason other than that covered by the original notice, timely and adequate notice shall be sent except as specified in subrule 7.7(2).

b. Whenever the county office determines that a previously canceled case is eligible for reinstatement at a lower level of benefits, for a reason other than that covered by the original notice, timely and adequate notice shall be sent except as specified in subrule 7.7(2).

c. Food stamp cases are eligible for reinstatement only in circumstances found in ~~rules rule 441—65.44(234) and 65.143(234) and 441—subrules subrule 65.19(13) and 65.119(13).~~ *FIP cases are eligible for reinstatement only in circumstances found in 441—subrules 40.2(5) and subrule 40.22(5).*

ITEM 8. Amend rule 441—7.8(17A) as follows:

Amend subrule 7.8(1) as follows:

7.8(1) Initiating a request. When a person, or the person's authorized representative, expresses in writing to the *appeals section, the local office, or the office that took the adverse action; dissatisfaction with any decision, action, or failure to act with reference to the case, the agency shall determine from the nature of the complaint whether the person wishes to appeal and receive an appeal hearing before an administrative law judge a presiding officer. Food stamp appeals may be made orally; all other appeals shall be made in writing.*

Amend subrule 7.8(2), introductory paragraph, as follows:

7.8(2) Filing the appeal. The appellant shall be encouraged, but not required, to make written appeal on Form ~~PA-3138-0 470-0487, part I, Appeal and Hearing Request for Hearing,~~ and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (*except for food stamp appeals*) and has been communicated to the department by the appellant or appellant's representative.

Amend subrule 7.8(5) as follows:

7.8(5) Interference. The *prehearing* conference shall not be used to discourage appellants from proceeding with their

HUMAN SERVICES DEPARTMENT[441](cont'd)

appeals. The right of appeal shall not be limited or interfered with in any way, even though the person's complaint may be without basis in fact, or because of the person's own misinterpretation of law, agency policy, or methods of implementing policy.

Amend subrule 7.8(8) as follows:

7.8(8) Withdrawal. When the appellant desires to voluntarily withdraw the appeal, the worker shall request *that* the appellant ~~to~~ sign Form ~~PA-3161-0 470-0492~~, Request for Withdrawal of Appeal, if the appellant is in the local office. In all other cases the ~~bureau of policy analysis appeals section~~ will request *that* the appellant sign the form or the ~~administrative law judge presiding officer~~ will secure a statement on the hearing record. *The appeals section will accept any clear, written statement from the appellant to withdraw the appeal.*

Amend subrule **7.8(9)**, paragraphs "**a**," "**b**," and "**c**," as follows:

a. ~~Immediately~~ *Within one working day of receipt*, complete part II of Form ~~PA-3138-0 470-0487~~, Appeal and Hearing Request for Hearing, and ~~shall~~ forward that form, the written appeal, *the postmarked envelope if there is one*, and a copy of the notification of the proposed adverse action to the ~~bureau of policy analysis, appeals section~~. ~~Immediately shall mean within one working day of receipt.~~

b. Forward a summary and supporting documentation of the worker's factual basis for the proposed action to the ~~bureau of policy analysis, appeals section~~, within ten days of the receipt of the appeal.

c. Provide copies of all materials sent to the ~~bureau of policy analysis, appeals section~~, for inclusion in the appeal file to be considered in reaching a decision on the appeal, to the appellant and *the* appellant's representative at the same time.

ITEM 9. Amend rule 441—7.9(17A) as follows:

Amend subrule 7.9(1) as follows:

Amend the introductory paragraph as follows:

7.9(1) When assistance continues. Assistance shall not be suspended, reduced, restricted, ~~discontinued~~ or ~~terminated~~ *canceled*, nor shall a license, ~~or~~ registration, *certification, approval, or accreditation* be revoked, or other proposed adverse action be taken pending a final decision on an appeal when:

Amend paragraph "**b**" as follows:

b. The appellant requests a hearing within ten days from the date adequate notice is issued for ~~termination~~ *cancellation*, reduction, or suspension of ~~benefits~~, food stamps *stamp*, family investment program, or Medicaid *benefits*, based on the completed ~~monthly~~ report form, including:

(1) *Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 480-3719(S).*

(2) *Review/Recertification Eligibility Document, Form 470-2881 or 470-2881(M).*

(3) *Transitional Medicaid Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(M).*

c. If it is determined at a hearing that the issue involves only federal or state law or policy, assistance will be immediately discontinued.

Amend subrule 7.9(2) as follows:

Amend the introductory paragraph as follows:

7.9(2) When assistance does not continue. The adverse action appealed to suspend, reduce, restrict, ~~discontinue~~, or ~~terminate~~ *cancel* assistance; ; revoke a license, ~~or~~ registration, *certification, approval, or accreditation*; or take other proposed action may be implemented pending a final decision on appeal when:

Amend paragraph "**c**" as follows:

c. ~~A food stamp certification ends. Benefits or services were time limited through a certification period or prior authorization for which notice was given when established or for which adequate notice was provided.~~

Rescind and reserve paragraphs "**d**" and "**e**."

Amend subrule **7.9(4)**, paragraph "**a**," as follows:

a. A determination is made at the hearing that the sole issue is one of state or federal law or policy or change in state or federal law *or policy* and not one of incorrect grant computation, and the grant is adjusted.

ITEM 10. Amend rule 441—7.10(17A) as follows:

Amend subrule **7.10(4)** by adopting new paragraph "**e**" as follows:

e. Emergency assistance appeals shall be expedited.

Amend subrule 7.10(5) as follows:

7.10(5) Method of hearing. The department of inspections and appeals shall determine whether the appeal hearing is to be conducted in person, ~~or by videoconference~~ or by teleconference call. *The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings.* Any appellant is entitled to an in-person hearing if ~~desired~~ *the appellant requests one*. All parties shall be granted the same rights during a teleconference hearing as specified in 441—7.13(17A). *The appellant may request to have a presiding officer render a decision for attribution appeals through an administrative hearing.*

Amend subrule 7.10(7) as follows:

7.10(7) Notification. For those appeals certified for hearing, the department of inspections and appeals shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

a. The notice, as prescribed in Iowa Code section 17A.12(2), shall set forth:

(1) ~~the~~ *The* date, time, method and place of the hearing; ;

(2) ~~that~~ *That* evidence may be presented orally or documented to establish pertinent facts; ; and

(3) ~~that~~ *That* the appellant may question or refute any testimony, may bring witnesses of the appellant's choice and may be represented by others, including an attorney, subject to federal law and state statute. *The department will not pay for the cost of legal representation.*

a b. A copy of this notice shall be forwarded to the ~~local administrator~~ *department employee who took the action, the district office*, and to other persons when circumstances peculiar to the case indicate that the notification may be desirable.

b c. ~~The notice~~ *Notices of hearing regarding an intentional program violation may* shall be served upon the appellant ~~both by personal service as in civil actions, or by~~ certified mail, return receipt requested, ~~or~~ *and* by first-class mail, postage prepaid, addressed to the appellant at the last-known address. *All other notices of hearing shall be mailed by first-class mail, postage prepaid, addressed to the appellant at the appellant's last-known address.*

ITEM 11. Amend rule 441—7.13(17A) as follows:

Amend subrule **7.13(5)**, paragraph "**b**," as follows:

b. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate at the contested case proceeding and must be filed with the Department of Human Services, Appeals Section, Fifth Floor, ~~Hoover State Office Building~~ *1305 East Walnut Street*, Des Moines, Iowa 50319-0114.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) The ~~department of human services~~ appeals section shall be responsible for serving all parties with the motion to vacate. All parties to the appeal shall have ten days from service by the department to respond to the motion to vacate. If the department responds to any party's motion to vacate, all parties shall be allowed another ten days to respond to the department.

(2) The ~~department of human services~~ appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists ~~for~~ *to set aside* the default.

Amend subrule 7.13(6), paragraph "c," as follows:

c. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate at the contested case proceeding and must be filed with the Department of Human Services, Appeals Section, Fifth Floor, ~~Hoover State Office Building 1305 East Walnut Street~~, Des Moines, Iowa 50319-0114.

(1) The ~~department of human services~~ appeals section shall be responsible for serving all parties with the motion to vacate. All parties to the appeal shall have ten days from service by the department to respond to the motion to vacate. If the department responds to any party's motion to vacate, all parties shall be allowed another ten days to respond to the department.

(2) The ~~department of human services~~ appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists ~~for~~ *to set aside* the default.

ITEM 12. Amend rule 441—7.15(17A), unnumbered paragraph, as follows:

Forms ~~PA-5113-0~~ 470-0502, Authorization for Examination and Claim for Payment, and ~~PA-2126-5~~ 470-0447, Report on Incapacity, shall be utilized in obtaining medical information to be used in the appeal and to authorize payment for the examination.

ITEM 13. Amend rule 441—7.16(17A) as follows:

Amend subrule 7.16(2) as follows:

7.16(2) Findings of fact. *Any party may submit proposed findings of fact. The presiding officer will rule on the proposed findings of fact.* Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record. The findings of fact and conclusions of law in the proposed or final decision shall be limited to contested issues of fact, ~~or~~ policy, or law.

Amend subrule 7.16(3) as follows:

7.16(3) Proposed decision. Following the reception of evidence, the ~~administrative law judge~~ *presiding officer* shall issue a proposed decision, consisting of findings of fact and conclusions of law, separately stated. *The proposed decision shall be mailed by first-class mail, postage prepaid, addressed to the appellant at the appellant's last-known address.*

Amend subrule 7.16(5) as follows:

7.16(5) Time limit for appeal of a proposed decision. Appeal for the director's review of the proposed decision must be made in writing to the director *and postmarked or date-stamped* within ten calendar days of the date on which the proposed decision was signed and mailed. The day after the proposed decision is mailed is the first day of the time period within which a request for review must be filed. When the

time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

Amend subrule 7.16(6), first unnumbered paragraph, as follows:

When *the director grants* a review of a proposed decision on the department's ~~appeal request is granted by the director~~, the appellant and the appellant's representative shall be notified ~~the appeals section shall notify all other parties to the appeal of the review and the department's basis for requesting a review. send a copy of the request to all other parties.~~ The appellant or appellant's representative ~~All other parties~~ shall be provided ten calendar days from the date of notification to ~~file exceptions, present briefs, and submit further written arguments or objections for consideration upon review.~~

Amend subrule 7.16(7) as follows:

7.16(7) Appeal of the proposed decision by the appellant. When *the director grants* a review of a proposed decision ~~on the appellant's or appellant's representative's appeal is granted by the director~~, the appellant and appellant's representative ~~all other parties~~ shall be so notified.

Amend subrule 7.16(9), paragraph "b," as follows:

b. ~~Immediately upon~~ *Within seven calendar days of receipt of a copy of the final decision, the local office department shall take the action required by the decision. A report of that action shall be submitted to the bureau of policy analysis, appeals section, within seven calendar days of the date of the final decision.* When the final decision is favorable to the appellant, or when the ~~agency department~~ *agency department* decides in favor of the appellant ~~prior to before~~ the hearing, *the department shall make any additional correct corrective payments due, retroactive to the date of the incorrect action shall be made.*

Adopt ~~new~~ subrule 7.16(10) as follows:

7.16(10) Final decision. The department shall mail the final decision to the appellant at the appellant's last-known address by first-class mail, postage prepaid.

ITEM 14. Amend rule 441—7.18(17A) as follows:

Amend subrule 7.18(1) as follows:

7.18(1) Prohibited communication. ~~Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there~~ *There shall be no written, oral, or other type of communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such the case in connection with any issue of fact or law in the case except upon notice and opportunity for while an appeal is pending, without all parties being notified of an opportunity to participate, unless specifically authorized by statute or rule. This does not prohibit communication between persons jointly assigned such tasks from communicating with each other.*

a. ~~Nothing in this~~ *This provision is intended to preclude does not prevent* the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those defined in paragraph "c."

b. ~~persons do~~ *Persons described in paragraph "c" shall not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.*

c. For purposes of this rule, :

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) *People with a direct or indirect interest in a case include any member of the appeals advisory committee and any person engaged in personally investigating, prosecuting, or advocating in either the case under appeal or a pending factually related case involving the same parties.*

(2) ~~the~~ The term “personally investigating” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is related to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Rescind and reserve subrule **7.18(3)**.

ITEM 15. Amend rule 441—7.20(17A) as follows:

Amend subrule 7.20(1) as follows:

7.20(1) Right of judicial review. If a director’s review is requested, the final decision shall advise the appellant *or the appellant’s representative* of the right to judicial review by the district court. When the appellant *or the appellant’s representative* is dissatisfied with the final decision, and ~~appeals requests judicial review of the decision to the district court,~~ the department shall furnish copies of the documents or supporting papers, ~~which the appellant and legal representative may need in order to perfect the appeal to district court, including a written transcript of the hearing.~~ An appeal of the final decision to district court does not itself stay execution or enforcement of an agency action.

Amend subrule **7.20(2)**, paragraph “b,” as follows:

b. In determining whether to grant a stay pending judicial review, the director shall consider the factors listed in ~~1998 Iowa Acts, chapter 1202, section 23(5c) Iowa Code section 17A.19(5)~~ “c.”

ITEM 16. Amend rule 441—7.21(17A) as follows:

Amend subrule 7.21(1) as follows:

7.21(1) *Appeal hearings.* All appeal hearings in the food stamp program shall be conducted in accordance with federal regulation, Title 7, Section 273.15, as amended to ~~February 15, 1983~~ *January 1, 2002*.

Amend subrule 7.21(2) as follows:

7.21(2) *Food stamp administrative disqualification hearings.* All *food stamp* administrative disqualification hearings shall be conducted in accordance with federal regulation, Title 7, Section 273.16, as amended to ~~February 15, 1983~~ *January 1, 2002*.

Rescind paragraphs “a,” “b,” and “c.”

Adopt **new** subrules 7.21(3) through 7.21(6) as follows:

7.21(3) Conduct of a food stamp administrative disqualification hearing. Hearings over disqualification of a household member for an intentional program violation shall be conducted by a presiding officer.

a. The department of inspections and appeals shall serve an Intentional Program Violation Hearing Notice upon the household member both by certified mail, return receipt requested, and by first-class mail, postage prepaid, addressed to the household member at the last-known address 30 calendar days before the initial hearing date.

b. The household member or that person’s representative may request to postpone the hearing for up to 30 days, provided the request is made at least 10 calendar days before the scheduled hearing date.

c. At the hearing, the presiding officer shall advise the household member or that person’s representative that the household member has the right to refuse to answer questions during the hearing and that the state or federal government may use the information in a civil or criminal action.

7.21(4) Consolidating hearings. Appeal hearings and food stamp administrative disqualification hearings may be consolidated if the issues arise out of the same or related circumstances, and the household member has been provided with notice of the consolidation by the department of inspections and appeals.

a. If the hearings are combined, the time frames for conducting a food stamp administrative disqualification hearing shall apply.

b. If the hearings are combined for the purpose of setting the amount of the overpayment at the same time as determining whether or not an intentional program violation has occurred, the household shall lose its right to a subsequent hearing on the amount of the overpayment.

7.21(5) Attendance at hearing. The household member shall be allowed 10 days from the scheduled hearing to present reasons indicating good cause for not attending the hearing.

a. The appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists for the default as specified in subrule 7.13(5). Timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party.

b. Unless good cause is determined, when the household member or that person’s representative cannot be located or fails to appear at the scheduled hearing, the hearing shall be conducted without that person. In that instance, the presiding officer shall consider the evidence and determine if the evidence is clear and convincing that an intentional program violation was committed.

c. If the household member who failed to appear at the hearing is found to have committed an intentional program violation, but the presiding officer later determines that this person or the person’s representative had good cause for not appearing, the previous hearing decision shall no longer be valid. A new hearing shall be conducted.

7.21(6) Food stamp administrative disqualification hearing decisions. The presiding officer shall base the determination of an intentional program violation on clear and convincing evidence that demonstrates the person committed, and intended to commit, an intentional program violation.

a. The proposed and final hearing decisions shall be made in accordance with rule 7.16(17A) unless otherwise specified.

b. The appeals section shall notify the household member and the county office of the final decision within 90 days of the date the household member is notified in writing that the hearing has been scheduled. If the hearing was postponed pursuant to subrule 7.21(3), paragraph “b,” the 90 days for notifying the household member of the final decision shall be extended for as many days as the hearing is postponed.

c. The department shall take no action to disqualify a person from receiving food stamps before receiving the final appeal decision finding that the person has committed an intentional program violation.

d. No further administrative appeal procedure shall exist after the final decision is issued. The determination of an intentional program violation shall not be reversed by a subse-

HUMAN SERVICES DEPARTMENT[441](cont'd)

quent hearing decision. However, the person may appeal the case to the Iowa district court.

e. When a court decision reverses a determination of an intentional program violation, the appeals section shall notify the county office of the specifics of the court decision.

ITEM 17. Rescind and reserve rule **441—7.22(17A)**.

ITEM 18. Amend rule 441—7.23(17A) as follows:

441—7.23(17A) No Contested cases with no factual dispute contested cases. If the parties in a contested case agree that there is no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation, or as otherwise as agreed, by the parties, without necessity for the production of evidence at in lieu of an evidentiary hearing. If such an agreement is reached, a jointly submitted the parties shall jointly submit a schedule detailing the method and timetable for submission of the record, briefs, and oral argument arguments should be submitted to the presiding officer for approval as soon as practicable.

ITEM 19. Amend subrule 7.24(1), introductory paragraph, as follows:

7.24(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the United States Constitution and the Iowa Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 as amended by 1998 Iowa Acts, chapter 1202, section 20(3), to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order. Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

ITEM 20. Amend **441—Chapter 7**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

ARC 2318B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 217.6 and 252B.3, the Department of Human Services proposes to amend Chapter 95, “Collections,” Chapter 96, “Information and Records,” Chapter 97, “Collection Services Center,” and Chapter 98, “Support Enforcement Services,” Iowa Administrative Code.

These amendments relate to the following services provided by the Child Support Recovery Unit: serving qualifying customers, locating parents and safeguarding information, receiving and disbursing payments, and collecting sup-

port through state and federal offsets. The amendments were developed in response to public comments and internal assessments from the rules review mandated by Executive Order Number 8.

Changes to Chapter 95 include:

- Clarifying that a caretaker may apply for support enforcement against one or both parents and that a separate application form and fee are required for each parent from whom support is sought.
- Clarifying how the Unit determines the date of collection for vacation and severance withholding when the date is not indicated by the employer and that additional payments can be made if documentation is provided later.
- Clarifying requirements and procedures for collection from state or federal income tax refunds. The requirement to sign a repayment agreement for federal tax refund offset is deleted since the nonassistance application form already contains these provisions.
- Restoring provisions for appeals by the custodial parent based on the date of collection. Rule 441—95.13(17A) was inadvertently rescinded in a previous rule making.
- Adding provisions allowing the Department to close cases at the request of the recipient or when allowed by federal law. Case closure provisions for public assistance and non-public assistance cases are consolidated into subrule 95.14(1).
- Changing the time frame for notifying a family whose public assistance has been canceled of the continuation of support services and the fees and requirements of continued services. To comply with federal requirements, the Department must issue this notice within five working days of the notice of the family’s ineligibility for Family Investment Program benefits.
- Adding a reference to completion of Form 470-3877, Child Support Information, to the requirements for cooperating in collection efforts.
- Clarifying that the income maintenance unit determines noncooperation until the case is referred to the Child Support Recovery Unit.

Changes to Chapter 96 include:

- Consolidating provisions on refusal to comply with a request for information.
- Clarifying that a person has 30 days from the date of the notice to pay a fine for failure to comply with a request or subpoena.

Changes to Chapter 97 include:

- Defining the “core case information” that a clerk of court is required to transmit to the Unit.
- Removing a requirement that the Department mail monthly statements to noncustodial parents who are not subject to income withholding. Since payments can be submitted without the return of the monthly statement, the statement can be eliminated as a cost-saving measure.

Chapter 98 is amended to include a new subrule setting the proportion of a state government payment to an obligor that may be offset to apply toward delinquent support payments. Although state law allows 100 percent offset, the subrule sets the amount of offset at 50 percent to be consistent with the withholding limits on other types of income. The exception is lottery winnings, which are offset at 100 percent, since they are unanticipated income.

All of these chapters are revised to correct form names and numbers, update organizational names and statutory and regulatory references, and eliminate unnecessary language.

These amendments define rights to appeal and the process for contesting the actions of the Child Support Recovery

HUMAN SERVICES DEPARTMENT[441](cont'd)

Unit. The amendments do not offer further provision for waivers in specified situations because they are either less restrictive than current rules or conform to federal or state statutes, which the Department does not have the authority to waive.

Any interested person may make written comments on the proposed amendments on or before March 12, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 96.3(9), 217.34, 252B.2 through 252B.7, 252B.9, 252B.14 through 252B.16, 252E.11, 421.17, and 598.22.

The following amendments are proposed.

ITEM 1. Amend subrule **95.2(4)**, paragraphs “a” and “b,” as follows:

a. A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2)“a,”“b,” and “c,” shall complete and return Form 470-0188, Application for Nonassistance Support Services, *for each parent from whom the person is seeking support.*

(1) *The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.*

(2) *The person requesting services has the option to seek support from one or both of the child's parents.*

b. An individual who is required to complete Form 470-0188, Application for Nonassistance Support Services, shall be charged an application fee in the amount set by statute. *The unit shall charge one application fee for each parent from whom support is sought. The unit shall charge the fee shall be charged at the time of initial application and any subsequent application for services. The individual shall pay the application fee shall be paid to the local child support recovery unit by the individual prior to before services being are provided.*

ITEM 2. Amend rule 441—95.3(252B) as follows:

Amend subrule **95.3(1)**, paragraph “b,” as follows:

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider. *When the income provider does not document the months for which the sums are withheld, the amounts shall initially be distributed based on the date of the check. If documentation is subsequently provided, any additional payments due the recipient shall be issued.*

Amend the implementation clause as follows:

~~This rule is~~ *These rules* are intended to implement Iowa Code ~~section sections~~ 252B.15 and ~~section~~ 252D.17 as amended by 2000 Iowa Acts, House File 2135, section 2.

ITEM 3. Amend rule 441—95.6(252B) as follows:

Amend the introductory paragraph as follows:

441—95.6(252B) Setoff Offset against state income tax refund or rebate. A claim against ~~a responsible person's~~ *an obligor's* state income tax refund or rebate will be made by the department when a support payment is delinquent as set forth in Iowa Code section 421.17(21). A claim against ~~a responsi-~~

~~ble person's~~ *an obligor's* state income tax refund or rebate shall apply to support which the department is attempting to collect.

Amend subrule 95.6(1) as follows:

95.6(1) ~~The By the first day of each month, the department shall submit to the department of revenue and finance by the first day of each month, a list of responsible persons~~ *obligors* who:

a. ~~are~~ *Are* delinquent at least \$50 in support payments; and

b. *Have not paid the current support obligation plus a monthly payment on the delinquency in each of the preceding 12 months.*

Rescind subrule 95.6(2) and adopt the following **new** subrule in lieu thereof:

95.6(2) When the department claims an obligor's state income tax refund or rebate, the department shall mail a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall mail a preoffset notice when:

a. The department of revenue and finance notifies the department that the obligor is entitled to a state income tax refund or rebate; and

b. The obligor has a delinquency of \$50 or greater; and

c. The obligor has not paid the current support obligation plus a monthly payment on the delinquency in each of the 12 months preceding the month in which the preoffset notice is mailed.

Amend subrules 95.6(3) and 95.6(4) as follows:

95.6(3) When the ~~responsible person~~ *obligor* wishes to contest a claim, a written request shall be submitted to the department within 15 days after the ~~pre-setoff preoffset~~ notice is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

95.6(4) The spouse's proportionate share of a joint return filed with ~~a responsible person~~ *an obligor*, as determined by the department of revenue and finance, shall be released by the department of revenue and finance unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be in writing and received by the department within 15 days after the mailing date of the ~~pre-setoff preoffset~~ notice.

Rescind and reserve subrule **95.6(5)**.

Amend subrules 95.6(6) and 95.6(7) as follows:

95.6(6) The department shall notify ~~a responsible person~~ *an obligor* of the final decision regarding the claim against the tax refund or rebate by mailing a final disposition of support recovery claim notice to the ~~responsible person~~ *obligor*.

95.6(7) Application of ~~setoff offset~~. ~~Setoffs~~ *Offsets* shall be applied as provided in rule 441—95.3(252B).

ITEM 4. Amend rule 441—95.7(252B) as follows:

Amend the introductory paragraph as follows:

441—95.7(252B) Offset against federal income tax refund and federal nontax payment. ~~A The department will make a claim against a responsible person's an obligor's federal income tax refund or federal nontax payment will be made by the department when delinquent support is owed. For purposes of this offset, delinquent support shall include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4).~~

Amend subrule **95.7(2)**, paragraph “a,” introductory paragraph, as follows:

a. The amount distributed to an obligee shall be the amount remaining following payment of a support delinquency assigned to the department. ~~Prior to receipt of the~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~amount to be distributed, the obligee shall sign Form 470-2084, Repayment Agreement for Federal Tax Refund Offset, agreeing to repay any amount of the offset the Department of the Treasury later requires the department to return. The department shall distribute to an obligee the amount collected from an offset according to subrule 95.7(9) within the following time frames:~~

Amend subrule 95.7(4) as follows:

95.7(4) Preoffset notice and review. Each obligor who does not have an existing support debt on record with the federal office of child support enforcement will ~~receive~~ *be sent* a preoffset notice in writing, using address information ~~available from the Department of the Treasury provided to the federal office of child support enforcement,~~ stating the amount of the delinquent support certified for offset.

a. Individuals ~~whose names were submitted for federal offset~~ who wish to dispute the offset must notify the department *in writing* within the time period specified in the preoffset notice.

b. Upon receipt of a complaint ~~from the individual~~ disputing the ~~submission for~~ offset, the ~~department~~ *child support recovery unit* shall conduct a review to determine if there is a mistake of fact and respond to the ~~obligor~~ *individual* in writing within ten days. For purposes of this rule, “mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

Amend subrules 95.7(6) and 95.7(7) as follows:

95.7(6) The department shall notify the federal office of child support enforcement, within time frames established by it, of any ~~decrease in,~~ *modification* or elimination of, an amount referred for ~~setoff~~ *offset*.

95.7(7) When an individual does not respond to the ~~pre-setoff~~ *preoffset* notice within the specified time even though the department later agrees a certification error was made, the person must wait for corrective action as specified in subrule 95.7(8).

Amend subrule 95.7(8) as follows:

Amend the introductory paragraph as follows:

95.7(8) Offset notice, appeal, and refund. The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. *When the unit receives information from the federal office of child support enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department shall issue to that individual Form 470-3684, Appeal Rights for Federal Offsets.*

Amend paragraph “a” as follows:

a. The ~~obligor~~ *individual whose name was submitted for federal offset* shall have 15 days from the date of the notice ~~to the obligor under this subrule~~ to contest the offset by initiating an administrative appeal pursuant to 441—subrules 7.8(1) and 7.8(2). ~~The obligor shall provide the department with a copy of the Department of the Treasury notice.~~ Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact as specified at paragraph 95.7(4)“b.”

ITEM 5. Amend rule 441—95.8(96) as follows:

441—95.8(96) Child support setoff offset of unemployment insurance benefits. When ~~job service~~ *the department of workforce development* notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the ~~child support recovery unit~~ *child support recovery unit* has been determined to be eligible for ~~job~~ *unemployment* insurance bene-

fits, the unit will enforce a child support obligation *that is* owed by an obligor but ~~which~~ *is not being met by setoff* ~~offset~~ of ~~job~~ *unemployment* insurance benefits. “Owed but not being met” means either current child support not being met or arrearages that are owed.

95.8(1) Withholding. The child support recovery unit shall offset ~~job~~ *unemployment* insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and 441—Chapter 98, Division II, ~~or a garnishment action pursuant to Iowa Code chapter 642.~~ The amount to be withheld through a withholding ~~or garnishment~~ of unemployment *insurance* benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

95.8(2) A receipt of the payments intercepted through ~~job~~ *unemployment* insurance benefits will be provided once a year, upon the ~~obligor's~~ *request of an absent parent* to the child support recovery unit.

ITEM 6. Adopt ~~new~~ rule 441—95.13(17A) as follows:

441—95.13(17A) Appeals. Nonreceipt of support collected by the department that is to be paid to the obligee may be appealed pursuant to the procedures provided in this rule if the obligee claims that the payment was credited to the incorrect month in accordance with subrules 95.3(1), 95.3(2), and 95.3(3).

95.13(1) Contact with department. Obligees who believe they have not received all or part of a support payment to which they are entitled in accordance with subrules 95.3(1), 95.3(2), and 95.3(3) must first contact a customer service representative and indicate that they have not received the payment.

a. An obligee may contact a customer service representative in person at the department's collection services center, by telephone through the specialized customer services unit, or by writing to the Collection Services Center, 727 East 2nd Street, Des Moines, Iowa 50306.

b. The department will acknowledge this contact in writing, indicating the months at issue.

95.13(2) Written decision. Within 30 days of the contact, the department shall issue a written decision on all contested support distributions based on the date of collection.

95.13(3) Initiation of appeal. If the department denies some or all support payments that are claimed based on the date of collection, the obligee may initiate an administrative appeal.

a. To initiate an administrative appeal, the obligee shall make a written request to the child support recovery unit indicating an intent to appeal.

b. The time limit for initiating an administrative appeal shall be governed by 441—subrule 7.5(4). The time limit provided in 441—subrule 7.5(4) shall start with the date that a written decision as required by subrule 95.13(2) is issued.

c. If no written decision has been issued after 30 days, the obligee may appeal the failure to issue a written decision. The appeal may be initiated at any time after 30 days and before a written decision is issued.

95.13(4) Limitation of appeals. Appeals will be limited to claims based on child support received by the department during the nine-month period before the month in which the appeal is initiated.

95.13(5) Appeal process. Except as specifically provided in this rule, administrative appeals shall be governed by 441—Chapter 7.

95.13(6) Appeal issue. The issue in appeals pursuant to these procedures shall be limited to the obligee's entitlement to a support payment that has been collected by the department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This rule is intended to implement Iowa Code sections 17A.12 to 17A.20.

ITEM 7. Amend rule 441—95.14(252B) as follows:

Amend subrule 95.14(1) as follows:

95.14(1) Case closure criteria. ~~In order to be eligible for closure, the case shall meet the requirements of subrule 95.14(3) or at least one of the following criteria:~~

a. Child support services to a recipient of public assistance may be terminated when one of the following case closure criteria is met:

~~a.~~ (1) There is no ongoing support obligation and arrearages are under \$500 or unenforceable under state law.

~~b.~~ (2) The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken.

~~c.~~ (3) Paternity cannot be established because:

~~(1)~~ 1. The child is at least 18 years old and action to establish paternity is barred by the statute of limitations;;

~~(2)~~ 2. A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or

~~(3)~~ 3. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the child support recovery unit with the recipient of services.

~~d.~~ (4) The noncustodial parent's location is unknown, and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to March 10, 1999, ~~which outline use of appropriate sources in established time frames to locate the noncustodial parent~~, all of which have been unsuccessful, within ~~one of the following time frames:~~

~~(1)~~ 1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

~~(2)~~ 2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

~~e.~~ (5) The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The child support recovery unit must have determined that no income or assets are available to the noncustodial parent which could be levied or attached for the payment of support.

~~f.~~ (6) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and there is not a reciprocity agreement with that country.

~~g.~~ (7) There has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.22(8) through 41.22(12) and 441—subrule 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

~~h.~~ (8) The child support recovery unit documents failure by the child support agency of another state which requested services to take an action which is essential for the next step in providing services.

(9) The non-IV-A recipient of services requests closure of a case and there is no assignment to the state of medical support under 42 CFR 433.146, as amended to October 1, 2002, or of arrearages which accrued under a support order.

(10) The case meets any other basis for case closure based upon federal law.

b. Child support services to a person who is not receiving public assistance may be terminated when one of the case closure criteria of subparagraphs 95.14(1) "a" (1) through (6) or (8) is met or for one or more of the following reasons:

(1) The child support recovery unit has received a written or oral request from the recipient to close the case, and there is no assignment to the state of medical support or arrearages which accrued under a support order.

(2) The child support recovery unit has received information that the address in the unit's record is no longer current, and the unit is unable to contact or otherwise locate the recipient within 60 days following receipt of this information, despite an attempt of at least one letter sent by first-class mail to the recipient's last-known address.

(3) The recipient of services has failed to cooperate with the child support recovery unit, the circumstances of the non-cooperation have been documented, and an action by the recipient of services is essential for the next step in providing services. (See rule 441—95.19(252B).)

(4) The child support recovery unit has provided location-only services.

(5) The child support recovery unit has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or forcible rape or a case in which legal proceedings for adoption are pending.

(6) The case meets any other basis for case closure based upon federal law.

Amend subrule 95.14(2), introductory paragraph, as follows:

95.14(2) Notification in public assistance cases. In cases meeting one of the criteria of ~~subrule~~ subparagraphs 95.14(1), paragraphs "a" through "f" and "h," *"a" (1) through (6), (8), or (10)*, the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the child support agency in the state which requested services in writing 60 calendar days ~~prior to~~ before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

Rescind and reserve subrule **95.14(3)**.

Amend subrule 95.14(4) as follows:

95.14(4) Notification in nonpublic assistance cases. ~~Notification shall be provided~~ *The child support recovery unit shall provide notification to nonpublic assistance cases meeting the criteria for closure in paragraph 95.14(1) "b" in the manner and under the conditions stated in subrule 95.14(2), except for cases terminated for the reasons listed in paragraphs 95.14(3) "a" and "d." subparagraphs 95.14(1) "b" (1) and (4). If the case was is to be closed because the child support recovery unit was unable to contact the recipient of services as provided in paragraph subparagraph 95.14(3) "b," (2), the case shall be kept open if contact is re-established with the recipient of services prior to before the effective date of the closure.*

ITEM 8. Amend rule 441—95.15(252B) as follows:

Amend subrule 95.15(1) as follows:

95.15(1) State's representative. An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with the child support recovery unit represents only the state of Iowa. The sole attorney-client relationship for the child support recovery unit attorney is between the attorney and the state of Iowa. A private attorney acting under ~~1997 Iowa Acts, House File~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~612, section 35, Iowa Code section 252B.6A~~ is not a child support recovery unit attorney, and is not a party to the action.

Amend subrule **95.15(3)**, paragraph “c,” as follows:

c. When a party is receiving public assistance, the ~~child support recovery unit~~ shall refer any suspected fraud or questionable aid to ~~dependent children family investment program~~ expenditures to the appropriate governmental agencies.

ITEM 9. Amend rule 441—95.18(252B) as follows:

Amend subrule 95.18(1) as follows:

95.18(1) Notice of services. ~~Within 45 days from the date FIP assistance is canceled or within 15 days from the date the unit is notified of the cancellation of~~ *When a family is no longer eligible for public assistance, the department shall forward Form CS 4413 470-1981, Notice of Continued Support Services, to a person's the family's last-known address within five working days of the notification of ineligibility, to inform the person of eligibility for and duration of the continued services.* family:

a. *That, unless the family notifies the department to the contrary, services will continue.*

b. *Of the effect of continuing to receive support services, including the available services and the state's policies or fees, cost recovery, and distribution.*

Amend subrule 95.18(2), introductory paragraph, as follows:

95.18(2) Termination of services. A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form ~~CS 4413 470-1981~~, Notice of Continued Support Services, or in any other form of written communication, to the child support recovery unit.

ITEM 10. Amend rule 441—95.19(252B) as follows:

Amend subrule **95.19(1)**, paragraph “c,” as follows:

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing *Form 470-3877, Child Support Information, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.*

Amend subrule 95.19(2) as follows:

95.19(2) Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall *promptly* send notice of a determination of noncooperation to the person on Form 470-3400, Notice of Noncooperation, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

ITEM 11. Amend rule 441—95.20(252B) as follows:

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in 441—subrule 41.22(6) and rule 441—75.14(249A) shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices

of that determination *until the referral to the unit is completed.*

ITEM 12. Amend subrule 95.21(2) as follows:

95.21(2) Failure to cooperate. The child support recovery unit shall make the determination of whether or not the non-public assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under ~~subrule 95.14(3 1)~~ “b”(1).

ITEM 13. Amend rule 441—96.1(252B) as follows:

Amend subrule 96.1(2) as follows:

96.1(2) Subpoena. All persons and entities shall comply with a Child Support Recovery Unit Subpoena, Form 470-3413, issued by the child support recovery unit, or an ~~Interstate Administrative Subpoena, OMB Control # 0970-0152, or its successor, issued by the unit or a child support agency of another state, as provided in Iowa Code section 252B.9 as amended by 1997 Iowa Acts, House File 612, section 39.~~ The child support recovery unit or a child support agency of another state may issue a subpoena regarding more than one individual. The person or entity shall provide the information and records as directed in Form 470-3413, or the ~~Interstate Administrative Subpoena.~~

Amend subrule 96.1(3) as follows:

Amend the introductory paragraph as follows:

96.1(3) Time to reply to a written request. A person or entity who is sent any of the following shall provide the information and records requested in the manner requested to the child support recovery unit or child support agency of another state, as appropriate, within 15 days of the ~~issuance~~ date of the request.

Amend paragraphs “b” and “d” as follows:

b. Form 470-3413, Child Support Recovery Unit Subpoena, *or an Administrative Subpoena, OMB Control # 0970-0152, or its successor, as provided at subrule 96.1(2), from the child support recovery unit.*

d. An ~~Interstate Administrative Subpoena, OMB Control # 0970-0152, or its successor, as provided at subrule 96.1(2), from a child support agency of another state.~~

ITEM 14. Rescind rule 441—96.2(252B) and adopt the following **new** rule in lieu thereof:

441—96.2(252B) Refusal to comply with written request or subpoena.

96.2(1) A parent or putative father in a support or paternity proceeding in which the child support recovery unit or a child support agency of another state is providing services who fails to comply with a request or subpoena as provided in subrule 96.1(3) shall be subject to license sanctioning as provided in 441—Chapter 98, Division VIII.

96.2(2) An entity or a person who is not a parent or putative father as described in subrule 96.2(1) may refuse to comply under the circumstances provided in rule 441—96.3(252B).

ITEM 15. Amend subrule 96.4(4) as follows:

96.4(4) Notice of findings. Following the conference, the unit shall issue a notice as provided in Iowa Code section 252B.9 ~~as amended by 1997 Iowa Acts, House File 612, section 39.~~

ITEM 16. Amend subrule 96.5(3) as follows:

96.5(3) Notification of fine. If the child support recovery unit assesses a fine, ~~the unit~~ shall notify the person or entity by regular mail with proof of service completed according to

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rule of Civil Procedure ~~82~~ 1.442. The person or entity shall have 30 days *from the date of the notice* to pay the fine.

ITEM 17. Amend **441—Chapter 96**, implementation clause, as follows:

~~This rule is~~ *These rules are* intended to implement Iowa Code section 252B.9 as amended by 1997 Iowa Acts, House File 612, section 39.

ITEM 18. Amend rule 441—97.2(252B), introductory paragraph, as follows:

441—97.2(252B) Transfer of records and payments. For non-IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. *“Core case information” means information listed in paragraphs 97.2(1) “a” and “b” and subrule 97.2(2).* For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, obligees, and payors of income based upon case type.

ITEM 19. Rescind and reserve rule **441—97.4(252B)**.

ITEM 20. Adopt **new** subrule 98.81(6) as follows:

98.81(6) Percentage of payment offset. The amount of offset shall be 50 percent of the total payment due the obligor, unless the payment results from lottery winnings, in which case the amount of offset shall be 100 percent of the payment. The amount taken shall not exceed the amount due on the case.

ARC 2291B**LABOR SERVICES DIVISION[875]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Iowa Administrative Code.

On December 17, 2002, the Occupational Safety and Health Administration, United States Department of Labor, delayed the effective date of certain record-keeping requirements that were previously scheduled to go into effect January 1, 2003. Pursuant to 29 Code of Federal Regulations 1904.37 and 1952.4, Iowa’s record-keeping rules must be “substantially identical” to the federal record-keeping rules. Pursuant to Iowa Code subsection 88.5(1)“a,” Iowa must adopt the federal rules. Adopting rule changes according to the federal time lines is key to continued federal funding. This amendment adopts by reference changes to the federal occupational safety and health record-keeping regulations.

The principal reasons for adoption of this amendment are to implement Iowa Code chapter 88, comply with federal requirements, and protect the safety and health of Iowa’s workers. No waiver provision is included because there is a statutory variance procedure.

This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

A public hearing will be held on March 11, 2003, at 1:30 p.m. in the Stanley Room of the Iowa Workforce Development Building, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make an oral statement and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

Written data or arguments to be considered in adoption may be submitted by interested persons no later than March 11, 2003, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209, or faxed to (515)281-7995. E-mail may be sent to kathleen.uehling@iwd.state.ia.us.

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

Amend rule **875—4.3(88)** by inserting at the end thereof:

67 Fed. Reg. 77170 (December 17, 2002)

ARC 2320B**LOTTERY DIVISION[705]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 99E.9(3) and Executive Order Number 8, the Lottery Division proposes to amend Chapter 1, “General Operation of the Lottery,” Chapter 2, “Licensing,” Chapter 3, “Licensed Retailers,” Chapter 8, “Scratch Ticket General Rules,” Chapter 11, “Pull-Tab General Rules,” and Chapter 13, “Computerized Lottery Games—General Rules,” Iowa Administrative Code.

The purpose of these amendments is to satisfy the requirements of Executive Order Number 8, which mandates that state agencies identify and modify or rescind administrative rules that are outdated, redundant, overly broad, ineffective, unnecessary, or otherwise undesirable.

In order to ensure stakeholder involvement as directed by Executive Order Number 8, a complete copy of the Lottery Division’s administrative rules was furnished to each retail licensee in January 2000, along with an invitation to review the rules and comment via a survey that accompanied the rules package. The invitation also was carried as an item in Lottery Action, the Lottery Division’s retailer news publication. The proposed rules have been and remain posted on the Division’s Web site, www.ialottery.com.

Any interested party may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request must include all of the following: the name, address, and telephone number of the party making the comments or

LOTTERY DIVISION[705](cont'd)

request; a reference to the specific proposed rules that are the subject of the comments or request; and the general content of a requested oral presentation.

The comments or request should be addressed to the Iowa Lottery Rules Administrator and should either be mailed to 2015 Grand Avenue, Des Moines, Iowa 50312, faxed to (515)281-7882, or sent by E-mail to web.master@ilot.state.ia.us. All comments or requests for oral presentations must be received by the Lottery Rules Administrator no later than March 11, 2003.

A meeting to hear requested oral presentations is scheduled for Thursday, March 13, 2003, at 9 a.m. at the Lottery headquarters at 2015 Grand Avenue, Des Moines, Iowa. The meeting will be canceled without further notice if no oral presentations are requested.

These amendments are intended to implement Executive Order Number 8 and Iowa Code section 17A.3(1)"a" and chapter 99E.

The following amendments are proposed.

ITEM 1. Amend rule 705—1.3(17A) as follows:

705—1.3(17A) Location. Lottery headquarters is located at 2015 Grand Avenue, Des Moines, Iowa 50312-4999. The lottery has regional offices located *throughout the state offering some of the services available at the headquarters office. Information regarding lottery headquarters and regional offices can be obtained on the lottery Web site, www.ialottery.com, on point-of-sale game-play publications, and by contacting the lottery headquarters at the following addresses: 2015 Grand Avenue, Des Moines, Iowa 50312; 2345 Blairs Ferry Road N.E., Cedar Rapids, Iowa 52402; 1612 Avenue D, Council Bluffs, Iowa 51501; 810 12th N.W., Mason City, Iowa 50401; and 822 Flindt Drive, Storm Lake, Iowa 50588.* The lottery board may be contacted through lottery headquarters. Office hours at all offices are 8 a.m. to 4:30 p.m., Monday through Friday. Prize redemption ~~departments~~ *operations* close at 4 p.m.

This rule is intended to implement Iowa Code section 17A.3(1)"a."

ITEM 2. Amend rule 705—1.4(17A) as follows:

705—1.4(17A) Board meetings. The lottery board ~~meets no fewer than four times a year~~ *shall meet at least quarterly* and may meet more often if necessary. The commissioner, the chairperson of the board, or a majority of the board may call a special board meeting. Board meetings are generally held at the lottery ~~office headquarters~~ at 2015 Grand Avenue, Des Moines, Iowa 50312. Board meetings may be held by teleconference.

This rule is intended to implement Iowa Code section 17A.3(1)"a."

ITEM 3. Amend rule 705—1.6(99E) as follows:

705—1.6(99E) Specific game rules. Specific game rules as authorized in Iowa Code section 99E.9(3)"b" shall be made available by the lottery as necessary for the efficient conduct of specific lottery games. These rules may include, but are not limited to, descriptions of specific games, special promotions, and drawing procedures. Specific game rules shall comply with ~~these~~ *the rules in the Iowa Administrative Code* except where ~~these~~ *the Iowa Administrative Code rules indicate* that variance by the specific game rules is permitted. Specific game rules shall be provided to board members as soon as is practical following issuance by the lottery.

This rule is intended to implement Iowa Code ~~sections~~ *section 99E.9(3) and 99E.9(3)"b."*

ITEM 4. Amend rule 705—1.22(99E) as follows:

705—1.22(99E) Prizes payable after death of winner. All prizes ~~and portions of prizes which~~ *that* remain unpaid at the time of the prizewinner's death shall be payable to the court-appointed representative of the prizewinner's estate or to a single individual pursuant to the terms of a final order closing the estate. The lottery may withhold payment until it is satisfied that the proper payee has been identified, or it may petition the court to determine the proper payee. In making payment, the lottery may rely wholly on the presentation of a certified copy of the letters of appointment as an administrator, executor, or other personal representative for the prizewinner's estate or on a certified copy of the final order closing the estate. Payment to the representative of the estate of the deceased owner of any prize winnings or to another individual pursuant to a final order closing the estate shall absolve the lottery and employees of the lottery of any further liability for payment of prize winnings.

If the winner received an annuitized prize funded through the Multi-State Lottery Association (MUSL) *or any other multijurisdictional lottery organization in which the Iowa lottery participates as a member*, the MUSL board *or other organization board, as may be appropriate*, in its sole discretion, upon the petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If the winner received an annuitized prize funded solely through the sales from the Iowa lottery, the lottery board, in its sole discretion, upon petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If such a determination is made, then securities or cash held for the deceased lottery winner, ~~which that~~ *represents* the present value of that portion of the future lottery payments that are to be accelerated, shall be distributed to the estate. The valuation of the securities and determination of the present value of the accelerated lottery payments shall be at the sole discretion of the board granting the petition.

This rule is intended to implement Iowa Code chapter 99E.

ITEM 5. Rescind subrule 1.29(4).

ITEM 6. Amend rule 705—1.29(99E), implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 99E.9(3), ~~99E.9(3)"e,"~~ and 99E.19(2).

ITEM 7. Amend subrule 2.16(1) as follows:

2.16(1) Sole proprietorship. ~~If the license applicant is The lottery will not require a bond from a sole proprietor, during if the account history for the applicant for the past two years, the applicant may have up to discloses no more than four accounts past due and no accounts over 90 days past due. The lottery will not require a bond with this credit history.~~

ITEM 8. Amend subrule 2.16(2) as follows:

2.16(2) Partnership. If the license applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 2.16(1). ~~If the credit history discloses that the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond with this credit history.~~

ITEM 9. Amend subrule 2.16(3) as follows:

2.16(3) Fraternal or civic association. If the license applicant is a fraternal association, civic organization or other nonprofit entity, the applicant must meet the credit guidelines set forth in subrule 2.16(1). ~~If the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond with~~

LOTTERY DIVISION[705](cont'd)

~~this credit history.~~ If the fraternal or civic association or other nonprofit entity has no credit history or the credit history is incomplete in the sole discretion of the lottery, then the officers of the fraternal or civic association or other nonprofit entity must meet the requirements of subrule 2.16(1). If the *credit history discloses that* the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond ~~with this credit history.~~

ITEM 10. Amend 705—Chapter 3 by adopting the following **new** rule:

705—3.13(99E) Placement of lottery equipment. The commissioner shall determine the need for and type of lottery equipment to be installed at licensee sales outlet locations. Decisions regarding placement of lottery equipment shall be at the sole discretion of the commissioner. In the exercise of discretion, the commissioner may consider any of the following:

1. The availability of equipment.
2. The suitability of the type of equipment for the specific retail outlet under consideration.
3. The location, equipment, business type and proximity of other extant retail outlets compared with an outlet under consideration.
4. The sufficiency of existing licensed outlets to serve the public convenience.
5. Such minimum sales criteria as may be appropriate based on current market conditions.
6. The cost of equipment and potential return on lottery investment.
7. Such other factors as the commissioner may deem appropriate to the exercise of prudent business judgment in reaching a decision.

The decision of the commissioner regarding placement of equipment is solely discretionary and final.

This rule is intended to implement Iowa Code sections 99E.9(3) and 99E.16(1).

ITEM 11. Amend rule 705—8.3(99E) as follows:

705—8.3(99E) Scratch ticket price. The lottery shall specify the price of scratch tickets in the specific game rules for each game. ~~At all times the lottery will offer at least one scratch ticket game in which the tickets will sell for \$1.~~ All ticket prices shall include applicable sales tax.

This rule is intended to implement Iowa Code ~~sections section 99E.9(3), 99E.9(3)“b,” and 99E.9(3)“c.”~~

ITEM 12. Amend rule 705—8.4(99E) as follows:

705—8.4(99E) Method of play. Winners of a prize may be determined by such activities as locating, matching, or adding the play symbols on the tickets ~~or by any other play action approved by the lottery.~~ The exact method of designating a winning ticket shall be determined by the lottery and shall be set forth in the specific game rules.

This rule is intended to implement Iowa Code ~~sections section 99E.9(3), 99E.9(3)“b,” and 99E.9(3)“c.”~~

ITEM 13. Amend rule 705—8.8(99E) as follows:

705—8.8(99E) Claiming prizes.

8.8(1) No change.

8.8(2) Prizes claimed at retailer. The specific game rules shall specify prizes ~~which that~~ shall be claimed from the retailer. To claim a prize from a retailer, the winner shall sign the back of the ~~winning~~ winning ticket and fill out a claim form if required by the specific game rules. If a retailer can verify the claim, the retailer shall pay the prize. If a retailer cannot

verify the claim, the player shall submit the ticket and a completed claim form to the lottery. If the claim is validated by the lottery, a draft shall be forwarded to the player in payment of the amount due. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

8.8(3) Prizes claimed at lottery. The specific game rules shall specify prizes ~~which that~~ may be claimed only from the lottery. To claim a prize from the lottery, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery, P.O. Box ~~Lottery~~ 10474, Des Moines, Iowa 50306-0474. If the claim is validated by the lottery, the prize or a check, warrant, or draft shall be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

8.8(4) and 8.8(5) No change.

ITEM 14. Amend paragraph **8.9(1)“g”** as follows:

g. Have ~~a~~ *the appropriate* bar code, pack-ticket number, retailer verification code, and ~~validation number security code.~~

ITEM 15. Amend paragraph **8.9(1)“h”** as follows:

h. Have a validation number ~~and, if the ticket is an apparent high-tier winning ticket, the number shall appear that appears~~ on the lottery's official list of validation numbers of winning ~~high-tier~~ tickets. A ticket with that validation number shall not have been previously paid.

ITEM 16. Amend rule 705—11.3(99E) as follows:

705—11.3(99E) Pull-tab ticket price. ~~The price of a pull-tab ticket shall not exceed \$2, including sales tax, and shall be specified. The lottery shall specify the price of pull-tab tickets in the specific game rules for each game.~~

This rule is intended to implement Iowa Code ~~sections section 99E.9(3), 99E.9(3)“b,” and 99E.9(3)“c.”~~

ITEM 17. Amend subrule **11.5(1)** by adding the following **new** paragraph **“c”** and relettering paragraphs **“c”** to **“f”** as **“d”** to **“g”**:

c. Not be counterfeited in whole or in part.

ITEM 18. Amend rule 705—13.4(99E) as follows:

705—13.4(99E) Cancellation by a player. A ticket may be canceled by returning the ticket to the selling retailer provided that the ticket is returned to the retailer the same day it was purchased ~~prior to 11 p.m. or in time to permit canceling to be fully completed prior to the closing time for that drawing, whichever is earlier.~~ In the event that a ticket is canceled, the player will be entitled to a refund from the retailer equal to the purchase price of the ticket.

~~Certain games will not allow cancellations. Cancellations will not be allowed in certain games as outlined in the specific game rules.~~

This rule is intended to implement Iowa Code ~~sections section 99E.9(3), 99E.9(3)“b,” and 99E.9(3)“j.”~~

ITEM 19. Amend rule 705—13.6(99E) as follows:

705—13.6(99E) Payment of annuity jackpot prizes. *The lottery may offer cash prizes, annuitized installment prizes, and prizes with cash or annuity payment options available to the winners.* If the jackpot prize or share of the jackpot prize will be paid as an annuity, it will consist of the initial payment

LOTTERY DIVISION[705](cont'd)

followed by ~~24~~ *such number of* yearly installments as may be provided in the specific game rules for the game unless the cash value of the annuity prize attributed to a single play is less than \$100,000. If the cash value of the annuity prize attributable to a single play is under \$100,000, the lottery may elect to pay the cash value of the prize in one lump-sum prize payment. This rule does not apply to multistate or other multijurisdictional lottery games. *Provision for payment of prizes for multistate and other multijurisdictional games shall be outlined in the specific game rules for such games.*

This rule is intended to implement Iowa Code sections 99E.9(3), ~~99E.9(3)"b,"~~ and ~~99E.9(3)"e,"~~ and 99E.9(4).

ITEM 20. Amend rule 705—13.7(99E) as follows:

705—13.7(99E) Unclaimed prizes. Unclaimed jackpot prizes, shares of the jackpot prize, and other lotto prizes do not increase a prize simultaneously won by any other player in the game. Unclaimed jackpot shares shall be added to future jackpot prize pools at times determined by the lottery. Other unclaimed prizes shall be added to future prize pools for any lottery game. *Except as may otherwise be provided in the specific game rules of a multistate lottery or other multijurisdictional lottery with which the Iowa lottery may be affiliated, this rule shall also apply to such games offered in Iowa.*

This rule is intended to implement Iowa Code sections 99E.9(3), ~~99E.9(3)"b,"~~ 99E.9(4) and 99E.19.

ITEM 21. Amend rule 705—13.14(99E) as follows:

705—13.14(99E) Manner of claiming prizes.

13.14(1) To receive payment for a prize or prizes on any single game ticket which total \$600 or less, the winner may take the signed ticket directly to any lottery retailer authorized to sell and validate the game, or to any lottery office, or mail the signed ticket, along with a completed claim form, to Iowa Lottery Headquarters, P.O. Box ~~Lottery~~ 10474, Des Moines, Iowa 50306-0474.

If there is any alteration, mutilation, tear, or other ambiguity on the ticket, the retailer is not authorized to make direct payment of a prize and a claim form and the ticket must be submitted to the lottery.

13.14(2) To receive payment for a prize or prizes on any single game ticket which total more than \$600, the winner may submit the signed ticket and a completed claim form directly to any lottery office. The winner may also mail the signed ticket and claim form to Iowa Lottery Headquarters, P.O. Box ~~Lottery~~ 10474, Des Moines, Iowa 50306-0474.

13.14(3) and 13.14(4) No change.

This rule is intended to implement Iowa Code sections 99E.9(3)~~"b,"~~ ~~99E.9(3)"e,"~~ and 99E.19.

ITEM 22. Amend rule 705—13.21(99E) as follows:

705—13.21(99E) Cancellation or delay of play. The lottery reserves the right to cancel or delay drawings or ticket sales *in the event of technical difficulties, and* on days of special importance or on days the drawings would be impractical or inappropriate.

This rule is intended to implement Iowa Code sections ~~section~~ 99E.9(3), ~~99E.9(3)"b,"~~ ~~99E.9(3)"e,"~~ and ~~99E.9(3)"g."~~

ITEM 23. Amend rule 705—13.23(99E) as follows:

705—13.23(99E) Prize insurance fund.

13.23(1) *The lottery may provide that up to 10 percent of the funds designated for the jackpot prize level in the prize*

structure of the specific game rules for a game or that any prize funding not awarded by the conclusion of the relevant claim period for a fixed-prize game shall be transferred to a prize insurance fund.

13.23(2) The prize insurance fund may be used for any of the following purposes:

4 a. To pay prizes for any on-line game prize obligation if the amount available to fund an on-line game prize is insufficient;

2 b. To support a special promotion to retire an on-line game, i.e., a television show or a second chance drawing;

3 c. To transfer amounts to a successor game to pay prize obligations for a different on-line game.

This rule is intended to implement Iowa Code sections ~~section~~ 99E.9(3), ~~99E.9(3)"b,"~~ ~~99E.9(3)"e,"~~ and ~~99E.9(3)"g."~~

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for February is 6.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants Maximum 6.0%

74A.4 Special Assessments Maximum 9.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective February 11, 2003, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days Minimum 0.80%

32-89 days Minimum 0.80%

90-179 days Minimum 0.80%

180-364 days Minimum 0.90%

One year to 397 days Minimum 1.10%

More than 397 days Minimum 1.60%

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

February 1, 2002 — February 28, 2002	7.00%
March 1, 2002 — March 31, 2002	7.00%
April 1, 2002 — April 30, 2002	7.00%
May 1, 2002 — May 31, 2002	7.25%
June 1, 2002 — June 30, 2002	7.25%
July 1, 2002 — July 31, 2002	7.25%
August 1, 2002 — August 31, 2002	7.00%
September 1, 2002 — September 30, 2002	6.75%
October 1, 2002 — October 31, 2002	6.25%
November 1, 2002 — November 30, 2002	5.75%
December 1, 2002 — December 31, 2002	6.00%
January 1, 2003 — January 31, 2003	6.00%
February 1, 2003 — February 28, 2003	6.00%
March 1, 2003 — March 31, 2003	6.00%

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

ARC 2321B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 455B.200, the Environmental Protection Commission hereby amends Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

In accordance with 2002 Iowa Acts, chapter 1137, the amendments revise minimum separation distances for both the land application of manure and construction of confinement feeding operation structures; include a methodology for the collection of an annual compliance fee; require the submission of annual manure management plan updates; modify the site inspection and construction permit application review process; amend Table 6 and delete Table 7; and incorporate the master matrix into Chapter 65.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on November 13, 2002, as **ARC 2101B**. In a separate rule making, a new subrule 65.10(3) was Adopted and Filed Emergency After Notice and published in the Iowa Administrative Bulletin on January 8, 2003, as **ARC 2242B**, and subsequent subrules were renumbered accordingly.

In response to comments received during the public comment period and at the public hearing, the following changes were made to the amendments published under Notice:

1. In subrules 65.10(1) and 65.16(3), the term "county officer" was changed to "county official or employee."

2. Subrule 65.10(4) (numbered as subrule 65.10(3) in the Notice) was amended to make it clear that the county will be notified and allowed to attend a site inspection only if the county has adopted and submitted a construction evaluation resolution and adopted recommendation.

3. The term "complete" was removed from subrule 65.10(5) (numbered as subrule 65.10(4) in the Notice), consistent with 2002 Iowa Acts, chapter 1137. Language was added to make it clear that if an applicant does not submit information requested to complete an application in a timely manner, the permit will be denied and the applicant must reapply.

4. The procedures in subrules 65.10(5) through 65.10(9) (numbered as subrules 65.10(4) through 65.10(8) in the Notice) for processing the permit application, notifying the county, and requesting and conducting a hearing were revised substantially in order to reconcile statutory provisions and clarify the procedures, again, in response to public comments. Preliminary determinations will be made only in cases in which the county has a right to demand a hearing; otherwise the applicant will receive a final approval or disapproval, subject to the applicant's right to contest the decision. In cases in which the county demands a hearing before the Commission, the applicant must choose whether to demand a contested case hearing at that time; if a contested case is not demanded, the decision of the Commission is final agency action. Minor revisions were made to subrule 65.10(9), relating to procedures in Commission hearings.

5. Subrule 65.16(3) was changed to clarify that it is the producer's duty to provide to the department documentation that the updated manure management plan was filed with the county.

6. The master matrix retains the requirement to obtain minimum scores in all three subcategories and to obtain a

minimum overall score of 50 percent. The minimum score in each subcategory was reduced from 30 percent to 25 percent. A mitigating factor relating to subtherapeutic use of antibiotics is not included in the matrix. Mitigating factor number 36, relating to use of low-phytase corn, was not adopted because the Commission felt it was too difficult to enforce. A new mitigating factor number 36, relating to demonstrated community support, was added. Minor clarifications were made to mitigating factor numbers 22, 23, 26, and 38. Clarifications were also made to mitigating factor numbers 1 and 30 to conform with Iowa Code chapter 237A.

7. The introductory paragraph to the master matrix was revised to make it clear that the applicant selects the factors that are to be applied to the facility.

8. At the end of Table 6, the parenthetical exclusions from the required separation distances for the right-of-way of a thoroughfare, relating to dry manure storage and permanent vegetation, were deleted to conform with 2002 Iowa Acts, chapter 1137, section 21.

These amendments were approved at the January 21, 2003, meeting of the Environmental Protection Commission.

Pursuant to Iowa Code section 17A.5(2)"b"(1), these amendments shall become effective on March 1, 2003, as provided by 2002 Iowa Acts, chapter 1137, section 62.

These amendments are intended to implement 2002 Iowa Acts, chapter 1137.

These amendments will become effective March 1, 2003. The following amendments are adopted.

ITEM 1. Amend rule **567—65.1(455B)** as follows:

Amend the following definitions:

"Abandoned ~~animal~~ *confinement* feeding operation structure" means the ~~animal~~ *confinement* feeding operation structure has been razed, removed from the site of a *confinement feeding operation*, filled in with earth, or converted to uses other than ~~an animal~~ *a confinement* feeding operation structure so that it cannot be ~~put back into service~~ *used as a confinement feeding operation structure* without significant ~~construction activity~~ *reconstruction*.

"Anaerobic lagoon" means an ~~impoundment used in conjunction with an animal feeding operation~~ *unformed manure storage structure*, if the primary function of the ~~impoundment structure~~ *impoundment* is to store and stabilize ~~organic wastes~~ *manure*, the ~~impoundment~~ *impoundment* structure is designed to receive ~~wastes manure~~ *manure* on a regular basis, and the ~~impoundment's~~ *impoundment's* design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include ~~any of the following~~:

1. ~~A confinement feeding operation structure.~~

2. A runoff control basin which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

3. An anaerobic treatment system ~~which~~ *that* includes collection and treatment facilities for all off gases.

"Animal" means a ~~domesticated animal belonging to the bovine, porcine, ovine, caprine, equine, or avian~~ *species classified as cattle, swine, horses, sheep, chickens or turkeys*.

"Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. An animal feeding operation does not include a livestock market. Open feedlots and confinement

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

feeding operations are considered to be separate animal feeding operations.

1. For purposes of water quality regulation, Iowa Code section ~~455B.174~~ *455B.200B as amended by 2002 Iowa Acts, chapter 1137, section 31*, provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. For purposes of the separation distances in Iowa Code section 455B.162, Iowa Code section ~~455B.161~~ *455B.161A as amended by 2002 Iowa Acts, chapter 1137, section 9*, provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. The distinction is due to regulation of animal feeding operations for water quality purposes under the federal Clean Water Act. The Code of Federal Regulations at 40 CFR §122.23 (1995) sets out the requirements for an animal feeding operation and requires that two or more animal feeding operations under common ownership be considered a single operation if they adjoin each other or if they use a common area or system for manure disposal. However, this federal regulation does not control regulation of animal feeding operations for the purposes of the separation distances in Iowa Code section 455B.162, and therefore the definition is not required by federal law to include common areas for manure disposal.

2. No change.

"Animal feeding operation structure" means ~~an anaerobic lagoon, formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or a confinement building, manure storage structure, or egg washwater storage structure.~~

"Animal unit" means a unit of measurement ~~used to determine the animal capacity of an animal feeding operation, based upon the product of multiplying the number of animals in of each species category by the following a special equivalency factor, as follows:~~

- | | |
|--|-------|
| 1. Slaughter and feeder cattle | 1.000 |
| 2. Immature dairy cattle | 1.000 |
| 3. Mature dairy cattle | 1.400 |
| 4. Butcher and or breeding swine, over weighing more than 55 pounds | 0.400 |
| 5. Swine between weighing 15 and pounds or more but not more than 55 pounds | 0.100 |
| 6. Sheep or lambs | 0.100 |
| 7. Horses | 2.000 |
| 8. Turkeys | 0.018 |
| 9. Broiler or layer chickens | 0.010 |

"Confinement feeding operation building" or "confinement building" means a building used in conjunction with a confinement feeding operation to house animals.

"Confinement feeding operation structure" means ~~a formed manure storage an animal feeding operation structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon that is part of a confinement feeding operation.~~

"Designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface tile inlet, drinking water well, ~~designated wetland, lake, or a farm pond or privately owned lake as defined in Iowa Code section 462A.2~~ water source. A designated area does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

"Formed manure storage structure" means a ~~structure, either covered or uncovered, impoundment~~ used to store manure from a ~~confinement an animal~~ feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.

"Major water source" means a ~~water source that is a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, which can support if the water source is capable of supporting~~ a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Table 1 and Table 2 at the end of this chapter.

"Manure storage structure" means ~~an aerobic structure, anaerobic lagoon, earthen manure storage basin, or a~~ formed manure storage structure used to store manure as a part of a ~~confinement feeding operation or an unformed manure storage structure. Manure~~ A manure storage structure does not include an egg washwater storage structure.

"Qualified confinement feeding operation" means a confinement feeding operation ~~constructed or expanded under a construction permit issued on or after May 31, 1995, and which has an animal weight unit capacity of:~~

1. ~~2,000,000~~ 5,333 or more pounds for animals other than animals kept in a swine as part of a farrowing and gestating operation or farrow-to-finish operation or bovine cattle kept in a confinement feeding as part of a cattle operation;

2. 2,500 or more for a swine farrowing and gestating operation;

3. 5,400 or more for a swine farrow-to-finish operation having an animal weight capacity of 2,500,000 or more pounds; ~~or a confinement feeding operation having an animal weight capacity of 8,000,000 or more pounds for bovine. ;~~

4. 8,500 or more for a confinement feeding operation maintaining cattle.

"Small animal feeding operation" means an animal feeding operation which has an animal weight unit capacity of ~~200,000 pounds or less for animals other than bovine, or 400,000 pounds~~ 500 or less for bovine fewer animal units.

"Unformed manure storage structure" means a covered or uncovered ~~animal feeding operation structure in which impoundment used to store manure is stored, other than a~~ formed manure storage structure ~~or egg washwater storage structure, which includes an anaerobic lagoon, earthen aerobic structure, or earthen manure storage basin.~~

Insert the following **new** definitions in alphabetical order:

"Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in Iowa Code sections 455B.161A as amended by 2002 Iowa Acts, chapter 1137, section 9, and 455B.200B as amended by 2002 Iowa Acts, chapter 1137, sections 3 to 32.

"Document" means any form required to be processed by the department under this chapter regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in Iowa Code section 455B.200A as amended by 2002 Iowa Acts, chapter 1137, sections 28 and 29, manure management plans as provided in Iowa Code section 455B.203 as amended by 2002 Iowa Acts,

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

chapter 1137, sections 38 to 41, comment or evaluation by a county board of supervisors considering an application for a construction permit, the department's analysis of the application including using and responding to a master matrix pursuant to 2002 Iowa Acts, chapter 1137, section 35, and notices required under those sections.

"Internet" means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the World Wide Web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

"Karst terrain" means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an unformed manure storage structure and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain.

"Professional engineer" means a person engaged in the practice of engineering as defined in Iowa Code section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to Iowa Code section 542B.17.

"Public thoroughfare" means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

"Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"Water source" means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

ITEM 2. Amend subrule **65.3(3)**, paragraph "g," as follows:

g. Designated areas. A person shall not apply manure on ~~cropland~~ *land within 200 feet from a designated area, or in the case of a high quality water resource, within 800 feet, unless one of the following applies:*

(1) The manure is *land-applied by injection or by surface application with incorporation occurring within 24 hours after application on the same date as the manure was land-applied.*

(2) An area of permanent vegetation cover, *including filter strips and riparian forest buffers*, exists for 50 feet surrounding the designated area *other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well*, and ~~that~~ *the area of permanent vegetation cover is not subject to manure application.*

ITEM 3. Amend subrule **65.9(1)** by rescinding paragraph "n."

ITEM 4. Amend rule 567—65.10(455B) as follows:

567—65.10(455B) County participation in site inspections and the construction permit application review process, site inspections and complaint investigations.

65.10(1) Delivery of application to county. The applicant for a construction permit for a confinement feeding operation

or related animal feeding operation structure shall deliver in person or by certified mail a copy of the permit application and manure management plan to the county board of supervisors of the county where the confinement feeding operation or related animal feeding operation structure is proposed to be constructed. Receipt of the application and manure management plan by the county auditor *or other county official or employee designated by the county board of supervisors* is deemed receipt of the application and manure management plan by the county board of supervisors. Documentation of the delivery or mailing of the permit application and manure management plan shall be forwarded to the department.

65.10(2) County Public notice and county comment. ~~The county board of supervisors may submit comments by the board and public regarding compliance of the construction permit application and manure management plan with the requirements in this chapter and Iowa Code chapter 455B for obtaining a construction permit.~~

a. ~~The department shall consider and respond to comments submitted by the county board of supervisors regarding compliance by the applicant with the legal requirements for approving a construction permit as provided in this chapter, including rules adopted by the department pursuant to Iowa Code section 455B.200. The comments shall be delivered to the department within 30 days after receipt of the application by the county board of supervisors in order to be considered in the permit review process.~~ *Public notice. The county board of supervisors shall publish a notice that the board has received the construction permit application in a newspaper having general circulation in the county. The county board shall publish the notice as soon as possible but no later than 14 days after receiving the permit application. The notice shall include all of the following:*

(1) *The name of the person applying to receive the construction permit;*

(2) *The name of the township where the confinement feeding operation structure is to be constructed;*

(3) *Each type of confinement feeding operation structure proposed to be constructed;*

(4) *The animal unit capacity of the confinement feeding operation if the construction permit were to be approved;*

(5) *The time when and the place where the application may be examined as provided in Iowa Code section 22.2;*

(6) *Procedures for providing public comments to the board as provided by the board.*

The county shall submit to the department, within 30 days of receipt of the construction permit application, proof of publication to verify that the county provided public notice as required in this paragraph.

b. *County comment. Regardless of whether the county board of supervisors has adopted a construction evaluation resolution, the board may submit to the department comments by the board and the public regarding compliance of the construction permit application and manure management plan with the requirements in this chapter and Iowa Code chapter 455B for obtaining a construction permit. Comments may include, but are not limited to, the following:*

(1) *The existence of an object or location not included in the construction permit application which benefits from a separation distance requirement as provided in Iowa Code section 455B.162 or 455B.204.*

(2) *The suitability of soils and the hydrology of the site where construction or expansion of a confinement feeding operation or related animal feeding operation structure is proposed.*

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(3) The availability of land for the application of manure originating from the confinement feeding operation.

(4) Whether the construction or expansion of a proposed animal feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.

65.10(3) No change.

65.10(4) Inspection of proposed construction site. *The department may conduct an inspection of the site on which construction of the confinement feeding operation is proposed after providing a minimum of 24 hours' notice to the construction permit applicant or sooner with the consent of the applicant. If the county in which the proposed facility is located has adopted and submitted a construction evaluation resolution pursuant to subrule 65.10(3) and has not failed subsequently to submit an adopted recommendation, the county may designate a county employee to accompany a department official during the site inspection. The In such cases, the department shall notify the county board of supervisors or county designee at least three days prior to conducting an inspection of the site where construction of the confinement feeding operation is proposed in the permit application. The county board of supervisors may designate a county employee to accompany a departmental official during the site inspection. The county designee shall have the same right to access to the site's real estate on which construction of the confinement feeding operation is proposed as the departmental official conducting the inspection during the period that the county designee accompanies the departmental official. The departmental official and the county designee shall comply with standard biosecurity requirements customarily required by the owner of the confinement feeding operation that are necessary in order to control the spread of disease among an animal population.*

65.10(5) ~~Waiting period. The department shall not approve or disapprove the application until 30 days following delivery of the application to the county board of supervisors.~~ *Determination by the department. The department must receive the county board of supervisors' comments or evaluation for approval or disapproval of an application for a construction permit not later than 30 days following the applicant's delivery of the application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must render a determination or a preliminary determination to approve or disapprove an application for a construction permit within 60 days following the applicant's delivery of an application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may terminate an application if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information with-*

in a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed.

The department will approve or disapprove an application as follows:

a. *If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department will disapprove the application if it does not meet such requirements.*

b. *If the board of supervisors for the county in which the confinement feeding operation is proposed to be constructed has filed a county construction evaluation resolution and submits an adopted recommendation to approve the construction permit application, which may be based on a satisfactory rating produced by the master matrix, to the department, the department shall preliminarily approve an application for a construction permit if the department determines that the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of the adopted recommendation of the board of supervisors. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.*

c. *If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter and Iowa Code chapter 455B, the department shall conduct an independent evaluation of the application using the master matrix. The department shall preliminarily approve the application if it achieves a satisfactory rating according to the department's evaluation. The department shall preliminarily disapprove the application if it produces an unsatisfactory rating regardless of whether the application satisfies the requirements of this chapter and Iowa Code chapter 455B. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.*

65.10(6) Departmental notification of permit application decision. *Within three days following the department's decision determination or preliminary determination to approve or disapprove the application for a construction permit, the department shall deliver a notice of the decision to the county board of supervisors applicant.*

a. *If the county board of supervisors has submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department shall notify the board of the department's preliminary decision to approve or disapprove the application at the same time. For a preliminary decision to approve an approved application, the notice shall consist of a copy of the draft construction permit as issued. For a disapproved pre-*

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

liminary decision to disapprove an application, the notice shall consist of a copy of the department's letter of preliminary denial. The preliminary decision to approve or disapprove an application becomes final without further proceedings if neither the county board of supervisors nor the applicant demands a hearing before the commission or appeals pursuant to 65.10(7) and 65.10(8).

b. If the county board of supervisors has not submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department notice shall include the construction permit or letter of denial. The applicant may appeal the permit or denial as provided in 65.10(8).

65.10(7) County demand for hearing. ~~The~~ A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's preliminary decision to approve or disapprove an application by filing a written demand for a hearing before the commission. Due to the need for expedited scheduling, the county board of supervisors shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that ~~it~~ *the board* intends to file a demand for hearing. The demand for hearing shall be mailed to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, and must be postmarked within 14 days following receipt of the department's notice of preliminary decision. The demand shall include a statement providing all reasons *why* the application should be approved or disapproved according to legal requirements in this chapter and Iowa Code chapter 455B; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for consideration by the commission; and a statement indicating whether oral argument before the commission is desired.

65.10(8) Applicant demand for hearing; appeal. *The applicant may contest the department's decision or preliminary decision to approve or disapprove an application by filing a written demand for a hearing. The applicant may elect to have the hearing conducted as a contested case before an administrative law judge pursuant to 561—Chapter 7, or before the commission pursuant to subrule 65.10(9). The demand for hearing shall indicate which procedure the applicant elects.*

a. Applicant demand for hearing before the commission. Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing; however, in cases in which the applicant would not demand a hearing unless the county demanded one, the applicant will be allowed an additional three working days to file a demand. It is the responsibility of the applicant to communicate with the department to determine if a county demand has been filed. The demand for hearing shall be mailed to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, and must be postmarked within 14 days following receipt of the department's notice of preliminary decision, or such longer time as authorized in this paragraph. The demand shall include a statement providing all reasons why the application should be approved or disapproved without specified conditions according to legal re-

quirements in this chapter and Iowa Code chapter 455B; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for consideration by the commission; and a statement indicating whether oral argument before the commission is desired. If both the applicant and a county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

b. Applicant contested case appeal. The applicant may appeal a permit or letter of denial according to the contested case procedures set forth in 561—Chapter 7; however, if the county has demanded a hearing pursuant to subrule 65.10(7), a demand for hearing must be filed within the time frames set forth in paragraph "a." If both the applicant and a county board of supervisors are contesting the department's preliminary decision, the applicant may request that the hearings be consolidated and conducted as a contested case.

65.10(8) (9) Decision by the commission. The director shall schedule ~~the matter~~ *a hearing on a demand pursuant to 65.10(7) or 65.10(8) "a"* for consideration at the next regular meeting of the commission and notify the county board of supervisors and the applicant of the time and place. However, if the next regular meeting of the commission will take place more than 35 days after receipt of the demand for hearing, the director shall schedule *a special in-person meeting or* an electronic meeting of the commission pursuant to Iowa Code section 21.8. The director shall provide the applicant with copies of all documents submitted by the county board of supervisors and a copy of the department's file on the permit application within three days after receipt of the county board of supervisors' comments. The applicant may submit responses or other documents for consideration by the commission postmarked or hand-delivered at least 14 days prior to the date of consideration by the commission. Consideration by the commission is not a contested case ~~and, unless otherwise determined by the commission, oral~~. Oral participation before the commission will be limited to *time periods specified by the commission and, unless otherwise determined by the commission, to argument by one representative each* representatives from the county board of supervisors, the applicant and the department. The decision by the commission shall be stated on the record and shall be final agency action pursuant to Iowa Code chapter 17A. If the commission reverses or modifies the department's decision, the department shall issue the appropriate ~~superseding~~ permit or letter of denial to the applicant. The letter of decision shall contain the reasons for the action regarding the permit.

65.10(9) (10) Complaint investigations. Complaints of violations of Iowa Code chapter 455B and this rule, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

a. to i. No change.

ITEM 5. Amend subrule 65.11(2) as follows:

65.11(2) Separation from surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, ~~major~~ *major* water sources and ~~water courses~~ *major water sources* shall be as specified in Iowa Code section 455B.204 and summarized in Table 6 ~~and Table 7~~ at the end of this chapter.

ITEM 6. Amend subrule 65.16(1) as follows:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

65.16(1) In accordance with Iowa Code section ~~455B.202~~ *455B.203 as amended by 2002 Iowa Acts, chapter 1137, section 38*, the following persons are required to submit manure management plans to the department, *including an original manure management plan and an updated manure management plan, as required by this rule:*

- a. No change.
- b. The ~~owners~~ owner of a confinement feeding ~~operations~~ operation, other than a small animal feeding operation, if ~~the one of the following applies:~~

(1) ~~The confinement feeding operation was constructed or expanded after May 31, 1985, and regardless of whether the confinement feeding operation structure was required to have a construction permit. Owners of confinement feeding operations which submitted a manure management plan are not required to submit a new plan if the plan meets the requirements of Iowa Code section 455B.200 which are summarized in 65.17(455B). Persons who have previously submitted manure management plans which do not meet the current plan requirements, and persons who have not previously submitted a manure management plan but are now required to do so, have until July 1, 1999, to submit a manure management plan which meets the requirements.~~

(2) ~~The owner constructs a manure storage structure, regardless of whether the person is required to be issued a permit for the construction pursuant to Iowa Code section 455B.200A as amended by 2002 Iowa Acts, chapter 1137, sections 28 and 29, or whether the person has submitted a prior manure management plan.~~

- c. and d. No change.

ITEM 7. Amend rule 567—65.16(455B) by adding the following **new** subrule 65.16(3) and by renumbering existing subrules **65.16(3)** through **65.16(6)** as **65.16(4)** through **65.16(7)**:

65.16(3) Scope of manure management plan; updated plans; annual compliance fee.

- a. Each confinement feeding operation required to submit a manure management plan shall be covered by a separate manure management plan.

- b. The owner of a confinement feeding operation who is required to submit a manure management plan under this rule shall submit an updated manure management plan on an

annual basis to the department. The updated plan must reflect all amendments made during the period of time since the previous manure management plan submission. The owner of the animal feeding operation shall also submit the updated manure management plan on an annual basis to the board of supervisors of each county where the confinement feeding operation is located and to the board of supervisors of each county where manure from the confinement feeding operation is land-applied. If the owner of the animal feeding operation has not previously submitted a manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied, the owner must submit a complete manure management plan to each required county. The county auditor or other county official or employee designated by the county board of supervisors may accept the updated plan on behalf of the board. The updated plan shall include documentation that the county board of supervisors or other designated county official or employee received the manure management plan update. The department will stagger the dates by which the updated manure management plans are due and will notify each confinement feeding operation owner of the date on which the updated manure management plan is due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation must submit one of the following:

- (1) A complete manure management plan;
- (2) A department-approved document stating that the manure management plan submitted in the prior year has not changed; or
- (3) A department-approved document listing all the changes made since the previous manure management plan was submitted and approved.

c. An annual compliance fee of \$0.15 per animal unit at the animal feeding operation shall accompany an annual manure management plan update submitted to the department for approval. The annual compliance fee is based on the animal unit capacity of the confinement feeding operation stated in the updated annual manure management plan submission. If the person submitting the manure management plan is a contract producer, as provided in Iowa Code chapter 202, the active contractor shall pay the annual compliance fee.

ITEM 8. Amend **567—Chapter 65** by rescinding Appendix C and inserting the following **new** appendix in lieu thereof:

APPENDIX C MASTER MATRIX

Proposed Site Characteristics

The following scoring criteria apply to the site of the proposed confinement feeding operation. Mark one score under each criterion selected by the applicant. The proposed site must obtain a minimum overall score of 440 and a score of 53.38 in the “air” subcategory, a score of 67.75 in the “water” subcategory and a score of 101.13 in the “community impacts” subcategory.

1. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
 - * Residence not owned by the owner of the confinement feeding operation,
 - * Hospital,
 - * Nursing home, or
 - * Licensed or registered child care facility.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Score	Air	Water	Community
250 feet to 500 feet	25	16.25		8.75
501 feet to 750 feet	45	29.25		17.50
751 feet to 1,000 feet	65	42.25		22.75
1,001 feet to 1,250 feet	85	55.25		29.75
1,251 feet or more	100	65.00		35.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

(B) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.

(C) “Licensed or registered child care facility” - a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.

(D) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

2. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest public use area.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

(B) “Public use area” - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 of 567—Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

3. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:

- * Educational institution,
- * Religious institution, or
- * Commercial enterprise.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

(B) The department will award points only for the single building, of the three listed above, closest to the proposed confinement feeding operation.

(C) “Educational institution” - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

(D) “Religious institution” - a building in which an active congregation is devoted to worship.

(E) “Commercial enterprise” - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

4. Additional separation distance, above the minimum requirement of 500 feet, from proposed confinement structure to the closest water source.

	Score	Air	Water	Community
250 feet to 500 feet	5		5.00	
501 feet to 750 feet	10		10.00	
751 feet to 1,000 feet	15		15.00	
1,001 feet to 1,250 feet	20		20.00	
1,251 feet to 1,500 feet	25		25.00	
1,501 feet or more	30		30.00	

“Water source” - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.

5. Separation distance of 300 feet or more from the proposed confinement structure to the nearest thoroughfare.

	Score	Air	Water	Community
300 feet or more	30	9.00		21.00

(A) “Thoroughfare” - a road, street, bridge, or highway open to the public and constructed or maintained by the state or a political subdivision.

(B) The 300-foot distance includes the 100-foot minimum setback plus an additional 200 feet.

6. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest critical public area.

	Score	Air	Water	Community
500 feet or more	10	4.00		6.00

(A) All critical public areas as defined in 567—65.1(455B) are public use areas and therefore subject to public use area minimum separation distances.

(B) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

7. Proposed confinement structure is at least two times the minimum required separation distance from all private and public water wells.

	Score	Air	Water	Community
Two times the minimum separation distance	30		24.00	6.00

Refer to Table 6 of 567—Chapter 65 for minimum required separation distances to wells.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

8. Additional separation distance, above the minimum requirement of 1,000 feet, from proposed confinement structure to the closest:

- * Agricultural drainage well,
- * Known sinkhole, or
- * Major water source.

	Score	Air	Water	Community
250 feet to 500 feet	5	0.50	2.50	2.00
501 feet to 750 feet	10	1.00	5.00	4.00
751 feet to 1,000 feet	15	1.50	7.50	6.00
1,001 feet to 1,250 feet	20	2.00	10.00	8.00
1,251 feet to 1,500 feet	25	2.50	12.50	10.00
1,501 feet to 1,750 feet	30	3.00	15.00	12.00
1,751 feet to 2,000 feet	35	3.50	17.50	14.00
2,001 feet to 2,250 feet	40	4.00	20.00	16.00
2,251 feet to 2,500 feet	45	4.50	22.50	18.00
2,501 feet or more	50	5.00	25.00	20.00

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.

(B) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.

(C) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567—Chapter 65.

9. Distance between the proposed confinement structure and the nearest confinement facility that has a submitted department manure management plan.

	Score	Air	Water	Community
Three-quarters of a mile or more (3,960 feet)	25	7.50	7.50	10.00

Confinement facilities include swine, poultry, and dairy and beef cattle.

10. Separation distance from proposed confinement structure to closest:

- * High quality (HQ) waters,
- * High quality resource (HQR) waters, or
- * Protected water areas (PWA)

is at least two times the minimum required separation distance.

	Score	Air	Water	Community
Two times the minimum separation distance	30		22.50	7.50

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.

(B) HQ waters are identified in 567—Chapter 61.

(C) HQR waters are identified in 567—Chapter 61.

(D) A listing of PWAs is available at

<http://www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in>.

11. Air quality modeling results demonstrating an annoyance level less than 2 percent of the time for residences within two times the minimum separation distance.

	Score	Air	Water	Community
University of Minnesota OFFSET model results demonstrating an annoyance level less than 2 percent of the time	10	6.00		4.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(A) OFFSET can be found at <http://www.extension.umn.edu/distribution/livestocksystems/DI7680.html>. For more information, contact Dr. Larry Jacobson, University of Minnesota, (612)625-8288, jacob007@tc.umn.edu.

(B) A residence that has a signed waiver for the minimum separation distance cannot be included in the model.

(C) Only the OFFSET model is acceptable until the department recognizes other air quality models.

12. Liquid manure storage structure is covered.

	Score	Air	Water	Community
Covered liquid manure storage	30	27.00		3.00

(A) "Covered" - organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.

(B) The design, operation and maintenance plan for the manure cover must be in the construction permit application and made a condition in the approved construction permit.

13. Construction permit application contains design, construction, operation and maintenance plan for emergency containment area at manure storage structure pump-out area.

	Score	Air	Water	Community
Emergency containment area	20		18.00	2.00

(A) The emergency containment area must be able to contain at least 5 percent of the total volume capacity of the manure storage structure.

(B) The emergency containment area must be constructed on soils that are fine-grained and have low permeability.

(C) If manure is spilled into the emergency containment area, the spill must be reported to the department within six hours of onset or discovery.

(D) The design, construction, operation and maintenance plan for the emergency containment area must be in the construction permit application and made a condition in the approved construction permit.

14. Installation of a filter(s) designed to reduce odors from confinement building(s) exhaust fan(s).

	Score	Air	Water	Community
Installation of filter(s)	10	8.00		2.00

The design, operation and maintenance plan for the filter(s) must be in the construction permit application and made a condition in the approved construction permit.

15. Utilization of landscaping around confinement structure.

	Score	Air	Water	Community
Utilization of landscaping	20	10.00		10.00

The design, operation and maintenance plan for the landscaping must be in the construction permit application and made a condition in the approved construction permit. The design should contain at least three rows of trees and shrubs, of both fast- and slow-growing species that are well suited for the site.

16. Enhancement, above minimum requirements, of structures used in stockpiling and composting activities, such as an impermeable pad and a roof or cover.

	Score	Air	Water	Community
Stockpile and compost facility enhancements	30	9.00	18.00	3.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(A) The design, operation and maintenance plan for the stockpile or compost structure enhancements must be in the construction permit application and made a condition in the approved construction permit.

(B) The stockpile or compost structures must be located on land adjacent or contiguous to the confinement building.

17. Proposed manure storage structure is formed.

	Score	Air	Water	Community
Formed manure storage structure	30		27.00	3.00

(A) "Formed manure storage structure" - a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.

(B) The design, operation and maintenance plan for the formed manure storage structure must be in the construction permit application and made a condition in the approved construction permit.

18. Manure storage structure is aerated to meet departmental standards as an aerobic structure, if aeration is not already required by the department.

	Score	Air	Water	Community
Aerated manure storage structure	10	8.00		2.00

(A) "Aerobic structure" - an animal feeding operation structure other than an egg washwater storage structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.

(B) The design, operation and maintenance plan for the aeration equipment must be in the construction permit application and made a condition in the approved construction permit.

19. Proposed confinement site has a suitable truck turnaround area so that semitrailers do not have to back into the facility from the road.

	Score	Air	Water	Community
Truck turnaround	20			20.00

(A) The design, operation and maintenance plan for the truck turnaround area must be in the construction permit application and made a condition in the approved construction permit.

(B) The turnaround area should be at least 120 feet in diameter and be adequately surfaced for traffic in inclement weather.

20. Construction permit applicant's animal feeding operation environmental and worker protection violation history for the last five years at all facilities in which the applicant has an interest.

	Score	Air	Water	Community
No history of Administrative Orders in last five years	30			30.00

(A) "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

(B) An environmental violation is a final Administrative Order (AO) from the department or final court ruling against the construction permit applicant for environmental violations related to an animal feeding operation. A Notice of Violation (NOV) does not constitute a violation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- 21.** Construction permit applicant waives the right to claim a Pollution Control Tax Exemption for the life of the proposed confinement feeding operation structure.

	Score	Air	Water	Community
Permanent waiver of Pollution Control Tax Exemption	5			5.00

(A) Waiver of Pollution Control Tax Exemption is limited to the proposed structure(s) in the construction permit application.

(B) The department and county assessor will maintain a record of this waiver, and it must be in the construction permit application and made a condition in the approved construction permit.

- 22.** Construction permit applicant can lawfully claim a Homestead Tax Exemption on the site where the proposed confinement structure is to be constructed

- OR -

the construction permit applicant is the closest resident to the proposed confinement structure.

	Score	Air	Water	Community
Site qualifies for Homestead Tax Exemption or permit applicant is closest resident to proposed structure	25			25.00

(A) Proof of Homestead Tax Exemption is required as part of the construction permit application.

(B) Applicant includes persons who have ownership interests. "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

- 23.** Construction permit applicant can lawfully claim a Family Farm Tax Credit for agricultural land where the proposed confinement feeding operation is to be located pursuant to Iowa Code chapter 425A.

	Score	Air	Water	Community
Family Farm Tax Credit qualification	25			25.00

Applicant includes persons who have ownership interests. "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

- 24.** Facility size.

	Score	Air	Water	Community
1 to 2,000 animal unit capacity	20			20.00
2,001 to 3,000 animal unit capacity	10			10.00
3,001 animal unit capacity or more	0			0.00

(A) Refer to the construction permit application package to determine the animal unit capacity of the proposed confinement structure at the completion of construction.

(B) If the proposed structure is part of an expansion, animal unit capacity (or animal weight capacity) must include all animals confined in adjacent confinement structures.

(C) Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

(a) At least one confinement feeding operation structure must be constructed on and after May 21, 1998.

(b) A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) 1,250 feet for confinement feeding operations having a combined animal unit capacity of less than 1,000 animal units.

(2) 2,500 feet for confinement feeding operations having a combined animal unit capacity of 1,000 animal units or more.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

25. Construction permit application includes livestock feeding and watering systems that significantly reduce manure volume.

	Score	Air	Water	Community
Wet/dry feeders or other feeding and watering systems that significantly reduce manure volume	25		12.50	12.50

The design, operation and maintenance plan for the feeding system must be in the construction permit application and made a condition in the approved construction permit.

Proposed Site Operation and Manure Management Practices

The following scoring criteria apply to the operation and manure management characteristics of the proposed confinement feeding operation. Mark one score under each criterion that best reflects the characteristics of the submitted manure management plan.

26. Liquid or dry manure (choose only one subsection from subsections "a" - "e" and mark only one score in that subsection)

	Score	Air	Water	Community
a. Bulk dry manure is sold under Iowa Code chapter 200A and surface-applied	15		15.00	
Bulk dry manure is sold under Iowa Code chapter 200A and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
b. Dry manure is composted and land-applied under the requirements of a manure management plan	10	4.00	4.00	2.00
Dry manure is composted and sold so that no manure is applied under the requirements of a manure management plan	30	12.00	12.00	6.00
c. Methane digester is used to generate energy from manure and remaining manure is surface-applied under the requirements of a manure management plan	10	3.00	3.00	4.00
After methane digestion is complete, manure is injected or incorporated on the same date it is land-applied under the requirements of a manure management plan	30	12.00	12.00	6.00
d. Dry manure is completely burned to generate energy and no remaining manure is applied under the requirements of a manure management plan	30	9.00	9.00	12.00
Some dry manure is burned to generate energy, but remaining manure is land-applied and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
e. Injection or incorporation of manure on the same date it is land-applied	30	12.00	12.00	6.00

- (A) Choose only ONE line from subsection "a," "b," "c," "d," or "e" above and mark only one score in that subsection.
 (B) The injection or incorporation of manure must be in the construction permit application and made a condition in the approved construction permit.
 (C) If an emergency arises and injection or incorporation is not feasible, prior to land application of manure, the applicant must receive a written approval for an emergency waiver from a department field office to surface-apply manure.
 (D) Requirements pertaining to the sale of bulk dry manure pursuant to Iowa Code chapter 200A must be incorporated into the construction permit application and made a condition of the approved construction permit.
 (E) The design, operation and maintenance plan for utilization of manure as an energy source must be in the construction permit application and made a condition in the approved construction permit.
 (F) The design, operation and maintenance plan for composting facilities must be in the construction permit application and made a condition in the approved construction permit.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

27. Land application of manure is based on a two-year crop rotation phosphorus uptake level.

	Score	Air	Water	Community
Two-year phosphorus crop uptake application rate	10		10.00	

- (A) Land application of manure cannot exceed phosphorus crop usage levels for a two-year crop rotation cycle.
 (B) The phosphorus uptake application rates must be in the construction permit application and made a condition in the approved construction permit.

28. Land application of manure to farmland that has USDA Natural Resources Conservation Service (NRCS)-approved buffer strips contiguous to all water sources traversing or adjacent to the fields listed in the manure management plan.

	Score	Air	Water	Community
Manure application on farmland with buffer strips	10		8.00	2.00

- (A) The department may request NRCS maintenance agreements to ensure proper design, installation and maintenance of filter strips. If a filter strip is present but not designed by NRCS, it must meet NRCS standard specifications.
 (B) The application field does not need to be owned by the confinement facility owner to receive points.
 (C) On current and future manure management plans, the requirement for buffer strips on all land application areas must be in the construction permit application and made a condition in the approved construction permit.

29. Land application of manure does not occur on highly erodible land (HEL), as classified by the USDA NRCS.

	Score	Air	Water	Community
No manure application on HEL farmland	10		10.00	

Manure application on non-HEL farmland must be in the construction permit application and made a condition in the approved construction permit.

30. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:

- * Residence not owned by the owner of the confinement feeding operation,
- * Hospital,
- * Nursing home, or
- * Licensed or registered child care facility.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	3.25		1.75
Additional separation distance of 500 feet	10	6.50		3.50

- (A) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
 (B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.
 (C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
 (D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.
 (E) "Licensed or registered child care facility" – a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.
 (F) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

31. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for land application of manure to closest public use area.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(A) "Public use area" - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 in 567—Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.

(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.

(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

32. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:

- * Educational institution,
- * Religious institution, or
- * Commercial enterprise.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.

(B) Minimum separation distance for land application of manure injected or incorporated on same date as application: 0 feet.

(C) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

(D) "Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

(E) "Religious institution" - a building in which an active congregation is devoted to worship.

(F) "Commercial enterprise" - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

33. Additional separation distance of 50 feet, above minimum requirements (0 or 200 feet, see below), for the land application of manure to the closest private drinking water well or public drinking water well

- OR -

well is properly closed under supervision of county health officials.

	Score	Air	Water	Community
Additional separation distance of 50 feet or well is properly closed	10		8.00	2.00

(A) Minimum separation distance for land application of manure injected or incorporated on the same date as application or 50-foot vegetation buffer exists around well and manure is not applied to the buffer: 0 feet.

(B) Minimum separation distance for land application of manure broadcast on soil surface: 200 feet.

(C) If applicant chooses to close the well, the well closure must be incorporated into the construction permit application and made a condition in the approved construction permit.

34. Additional separation distance, above minimum requirements, for the land application of manure to the closest:

- * Agricultural drainage well,
- * Known sinkhole,
- * Major water source, or
- * Water source.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	0.50	2.50	2.00
Additional separation distance of 400 feet	10	1.00	5.00	4.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- (A) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
- (B) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567—Chapter 65.
- (C) "Water source" - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.
- (D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

35. Additional separation distance, above minimum requirements, for the land application of manure, to the closest:

- * High quality (HQ) water,
- * High quality resource (HQR) water, or
- * Protected water area (PWA).

	Score	Air	Water	Community
Additional separation distance of 200 feet	5		3.75	1.25
Additional separation distance of 400 feet	10		7.50	2.50

- (A) HQ waters are identified in 567—Chapter 61.
- (B) HQR waters are identified in 567—Chapter 61.
- (C) A listing of PWAs is available at <http://www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in>.

36. Demonstrated community support.

	Score	Air	Water	Community
Written approval of 100 percent of the property owners within a one-mile radius	20			20.00

37. Worker safety and protection plan is submitted with the construction permit application.

	Score	Air	Water	Community
Submission of worker safety and protection plan	10			10.00

- (A) The worker safety and protection plan must be in the construction permit application and made a condition in the approved construction permit.
- (B) The worker safety and protection plan and subsequent records must be kept on site with the manure management plan records.

38. Applicant signs a waiver of confidentiality allowing the public to view confidential manure management plan land application records.

	Score	Air	Water	Community
Manure management plan confidentiality waiver	5			5.00

The waiver of confidentiality must be in the construction permit application and made a condition in the approved construction permit. The applicant may limit public inspection to reasonable times and places.

39. Added economic value based on quality job development (number of full time equivalent (FTE) positions), and salary equal to or above Iowa department of workforce development median (45-2093)
- OR -
the proposed structure increases commercial property tax base in the county.

	Score	Air	Water	Community
Economic value to local community	10			10.00

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The Iowa department of workforce development regional profiles are available at <http://www.iowaworkforce.org/centers/regionalsites.htm>. Select the appropriate region and then select "Regional Profile."

40. Construction permit application contains an emergency action plan.

	Score	Air	Water	Community
Emergency action plan	5		2.50	2.50

(A) Iowa State University Extension publication PM 1859 lists the components of an emergency action plan. The emergency action plan submitted should parallel the components listed in the publication.

(B) The posting and implementation of an emergency action plan must be in the construction permit application and made a condition in the approved construction permit.

(C) The emergency action plan and subsequent records must be kept on site with the manure management plan records.

41. Construction permit application contains a closure plan.

	Score	Air	Water	Community
Closure plan	5		2.50	2.50

(A) The closure plan must be in the construction permit application and made a condition in the approved construction permit.

(B) The closure plan must be kept on site with the manure management plan records.

42. Adoption and implementation of an environmental management system (EMS) recognized by the department.

	Score	Air	Water	Community
EMS	15	4.50	4.50	6.00

(A) The EMS must be in the construction permit application and made a condition in the approved construction permit.

(B) The EMS must be recognized by the department as an acceptable EMS for use with confinement operations.

43. Adoption and implementation of NRCS-approved Comprehensive Nutrient Management Plan (CNMP).

	Score	Air	Water	Community
CNMP	10	3.00	3.00	4.00

The implementation and continuation of a CNMP must be in the construction permit application and made a condition in the approved construction permit.

44. Groundwater monitoring wells installed near manure storage structure, and applicant agrees to provide data to the department.

	Score	Air	Water	Community
Groundwater monitoring	15		10.50	4.50

(A) Monitoring well location, sampling and data submission must meet department requirements.

(B) The design, operation and maintenance plan for the groundwater monitoring wells, and data transfer to the department, must be in the construction permit application and made a condition in the approved construction permit.

Minimum score to pass:

Total Score	Air	Water	Community
440	53.38	67.75	101.13

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 9. Amend **567—Chapter 65**, Table 6, as follows:

TABLE 6
Required Separation Distances—Swine, Sheep, Horses, and Poultry, and Beef and Dairy Cattle

DISTANCES TO BUILDINGS AND PUBLIC USE AREAS				
Type of Structure	Animal Weight Unit (AU) Capacity (lbs.)	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	<200,000 <1,000 AU	1,250 1,875 feet	1,250 1,875 feet	1,250 1,875 feet
	200,000 to <625,000	1,250 2,500 feet	1,250 2,500 feet	1,250 2,500 feet
	1,000 to <3,000 AU	1,875 3,000 feet	1,875 3,000 feet	1,875 3,000 feet
	625,000 to <1,250,000 3,000 AU or more 1,250,000 or more	2,500 feet	2,500 feet	2,500 feet
Covered earthen manure storage basins	<200,000 <1,000 AU	1,000 1,250 feet	1,250 1,875 feet	1,250 1,875 feet
	200,000 to <625,000	1,000 1,875 feet	1,250 2,500 feet	1,250 2,500 feet
	1,000 to <3,000 AU	1,250 2,375 feet	1,875 3,000 feet	1,875 3,000 feet
	625,000 to <1,250,000 3,000 AU or more 1,250,000 or more	1,875 feet	2,500 feet	2,500 feet
Uncovered formed manure storage structures	<200,000 <1,000 AU	None 1,500 feet	None 1,875 feet	None 1,875 feet
	200,000 to <625,000	1,250 2,000 feet	1,250 2,500 feet	1,250 2,500 feet
	1,000 to <3,000 AU	1,500 2,500 feet	1,875 3,000 feet	1,875 3,000 feet
	625,000 to <1,250,000 3,000 AU or more 1,250,000 or more	2,000 feet	2,500 feet	2,500 feet
Confinement buildings and covered formed manure storage structures	<200,000 <1,000 AU	None 1,250 feet	None 1,875 feet	None 1,875 feet
	200,000 to <625,000	1,000 1,875 feet	1,250 2,500 feet	1,250 2,500 feet
	1,000 to <3,000 AU	1,250 2,375 feet	1,875 3,000 feet	1,875 3,000 feet
	625,000 to <1,250,000 3,000 AU or more 1,250,000 or more	1,875 feet	2,500 feet	2,500 feet
Egg washwater storage structures	<200,000 <1,000 AU	None 1,000 feet	None 1,875 feet	None 1,875 feet
	200,000 to <625,000	750 1,500 feet	1,250 2,500 feet	1,250 2,500 feet
	1,000 to <3,000 AU	1,000 2,000 feet	1,875 3,000 feet	1,875 3,000 feet
	625,000 to <1,250,000 3,000 AU or more 1,250,000 or more	1,500 feet	2,500 feet	2,500 feet

DISTANCES TO WELLS No change.

OTHER DISTANCES FOR ANIMAL FEEDING OPERATION STRUCTURES regardless of animal weight unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead, cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Surface intake, wellhead, or cistern of agricultural drainage wells, known sinkholes or major water sources (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Watercourses other than major water sources (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	200 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Excluding small feeding operations, dry manure storage or when permanent vegetation is provided)	100 feet

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 10. Amend **567—Chapter 65** by rescinding Table 7 and striking all references to Table 7.

[Filed Emergency After Notice 1/30/03, effective 3/1/03]
[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2322B

LOTTERY DIVISION[705]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 99E.9(3), the Lottery Division hereby amends Chapter 2, "Licensing," Iowa Administrative Code.

This amendment reduces the fees paid by applicants for lottery licenses. Before this subrule was amended, applicants were charged varying fees based on the type of lottery product they wanted to sell. This amendment ensures that all license applicants pay the same fee regardless of the type of product sold. The Lottery Division determined that a single application fee of \$25 is reasonable for all applicants to pay, rather than having those applicants who want to sell computerized game tickets pay a higher fee of \$125.

Pursuant to Iowa Code section 17A.4(2), the Lottery Division finds that notice and public participation are unnecessary and impracticable because the amendment benefits the group affected by the subrule, lottery license applicants.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Lottery Division finds that the normal effective date of this amendment, 35 days after publication, should be waived and that this amendment should be made effective on January 31, 2003, because it confers a benefit by reducing the fees necessary to apply for a lottery license, which will increase the number of applicants for computerized games and ultimately the number of retailers that will want to sell a variety of lottery products. With more retailers selling a larger variety of lottery products, lottery revenues will increase.

The Lottery Board adopted this amendment on January 29, 2003.

This amendment is intended to implement Iowa Code sections 99E.9(3) and 99E.16.

This amendment became effective on January 31, 2003.

The following amendment is adopted.

Amend subrule 2.4(3) as follows:

2.4(3) ~~The fee for a lottery license varies based upon the type of lottery product which the applicant wishes to sell. All lottery license applications must be accompanied by the minimum, a nonrefundable fee of \$25. Applications to sell computerized game tickets, if available, must be accompanied by an additional fee of \$100 for a total fee of \$125. The additional fee shall be refunded to an applicant in the event the computerized license portion of the application is denied.~~

[Filed Emergency 1/31/03, effective 1/31/03]

[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2308B**ARCHITECTURAL EXAMINING
BOARD[193B]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

These amendments clarify the Board's processes for renewals of individual certificates of registration and Authorizations to Practice Architecture as a Business Entity, adopt an alternative method for reciprocal registration, and implement a fee that encourages renewal via the Board's on-line system.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2178B** on December 11, 2002. The adopted amendments are identical to those published under Notice.

The Board approved the amendments on January 16, 2003.

These amendments will become effective March 26, 2003.

These amendments are intended to implement Iowa Code chapters 17A and 544A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.1, 2.2(3), 2.2(4), 2.5(4) to 2.5(6), 2.7(4), 2.7(5), 2.8] is being omitted. These amendments are identical to those published under Notice as **ARC 2178B**, IAB 12/11/02.

[Filed 1/30/03, effective 3/26/03]
[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2301B**COLLEGE STUDENT AID
COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 261.3 and 261.37(5), the College Student Aid Commission hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

The amendments, which clarify the rules and correct grammatical oversights, are made pursuant to Executive Order Number 9.

Notice of Intended Action was published in the December 11, 2002, Iowa Administrative Bulletin as **ARC 2189B**. At the request of Commissioners, there are two changes from the Notice:

In subrule 1.2(2), fifth sentence, the word "superintendent" was changed to "director." The sentence now reads: "The director of the department of education serves as a continuous member of the commission and may appoint a designee to represent the department of education."

In subrule 1.2(7), first sentence, the words "public area schools" were changed to "community colleges." The sentence now reads: "An advisory council selected from officers of Iowa secondary schools, community colleges, Iowa independent colleges and universities, lending institutions, and state-supported universities shall be established by the commission."

Both changes were made to make the Commission's rules consistent with the Department of Education's rules. No comments were received from the public.

These amendments were approved during the January 21, 2003, meeting of the College Student Aid Commission.

These amendments will become effective March 26, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.1, 1.2] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2189B**, IAB 12/11/02.

[Filed 1/30/03, effective 3/26/03]
[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2300B**COLLEGE STUDENT AID
COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby rescinds Chapter 16, "Iowa Science and Mathematics Loan Program," Chapter 26, "Iowa Science and Mathematics Grant Program," Chapter 28, "Access to Education Grant Program," Chapter 33, "Graduate Student Financial Assistance Program," and Chapter 34, "Cosmetology and Barber Grants," Iowa Administrative Code.

This amendment eliminates rules for programs for which there is no longer statutory authority and is made pursuant to Executive Order Number 9.

Notice of Intended Action was published in the December 11, 2002, Iowa Administrative Bulletin as **ARC 2188B**. No comments were received from the public. This amendment is identical to that published under Notice.

This amendment was approved during the January 21, 2003, meeting of the College Student Aid Commission.

This amendment will become effective March 26, 2003.

This amendment is intended to implement Iowa Code chapters 17A and 261.

The following amendment is adopted.

Rescind and reserve **283—Chapters 16, 26, 28, 33, and 34.**

[Filed 1/30/03, effective 3/26/03]
[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2299B**COLLEGE STUDENT AID
COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 261.3, 261.37(5), and 261B.3A, the College Student Aid Commission hereby amends Chapter 21, "Approval of Postsecondary Schools," Iowa Administrative Code.

The amendment allows input from Iowa colleges and universities that are members of the Iowa Coordinating Council for Post-High School Education by requiring that applicant schools submit a description of a proposed program(s) to members of the Coordinating Council and respond to any inquiries or concerns.

Notice of Intended Action was published in the November 13, 2002, Iowa Administrative Bulletin as **ARC 2091B**. No comments were received from the public. This amendment is identical to that published under Notice.

This amendment was approved during the January 21, 2003, meeting of the College Student Aid Commission.

This amendment will become effective March 26, 2003.

This amendment is intended to implement Iowa Code section 261B.3A.

The following amendment is adopted.

Amend rule 283—21.1(78GA,SF2248) as follows:

283—21.1(78GA,SF2248) Approval criteria. The college student aid commission shall approve applicant schools that:

1. Are accredited by an agency recognized by the United States Department of Education or its successor agency.

2. Are approved for operation by the appropriate state agencies in all other states in which the schools operate or maintain a presence.

3. Are not subject to a limitation, suspension or termination order issued by the United States Department of Education or its successor agency.

4. Are free of sanctions from the schools' accrediting agencies and appropriate state agencies in all other states in which the schools operate or maintain a presence.

5. Enroll students who attend classes in Iowa and employ at least one full-time Iowa faculty member or program coordinator with graduate degrees, special training, experience, creative production or other accomplishments or distinctions that qualify them for their specific assignments.

6. Comply with Iowa Code section 261B.7 limiting the use of references to the secretary of state, state of Iowa, or college student aid commission in promotional material.

7. Comply with the requirements of Iowa Code section 261.9(1)"e" to "h."

8. File annual reports that the commission requires from all Iowa colleges and universities.

9. *Have submitted a description of a proposed program(s) to members of the Iowa coordinating council for post-high school education and have responded to any inquiries or concerns.*

This rule is intended to implement Iowa Code chapter 261B.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2312B**CREDIT UNION DIVISION[189]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby amends Chapter 1, "Description of Organization," Iowa Administrative Code.

This amendment is intended to update the list of forms and instructions and to add the Web site address to provide the public with options and ease to access necessary forms.

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on December 25, 2002, as **ARC 2207B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on January 29, 2003.

This amendment is intended to implement Iowa Code section 533.1 and Executive Order Number 8.

This amendment will become effective March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [1.4] is being omitted. This amendment is identical to that published under Notice as **ARC 2207B**, IAB 12/25/02.

[Filed 1/31/03, effective 3/26/03]

[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2313B**CREDIT UNION DIVISION[189]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby amends Chapter 2, "Organization, Chartering and Field of Membership of a Credit Union," Iowa Administrative Code.

These amendments define and add "multiple group" to types of common bond, eliminate the word "small" from the phrase "small employee group application," and eliminate wording to allow actual cost to be paid at a contested case hearing.

Notice of Intended Action was published in the December 25, 2002, Iowa Administrative Bulletin as **ARC 2208B**. No oral or written comments on the amendments were received. The adopted amendments are identical to those published under Notice.

The Board adopted these amendments on January 29, 2003.

These amendments are intended to implement Iowa Code section 533.1.

These amendments will become effective March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.1, 2.5(1), 2.12(3), 2.12(4), 2.13(1)] is

CREDIT UNION DIVISION[189](cont'd)

being omitted. These amendments are identical to those published under Notice as **ARC 2208B**, IAB 12/25/02.

[Filed 1/31/03, effective 3/26/03]
[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2314B

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby rescinds Chapter 3, "Examination and Supervision Fees," Iowa Administrative Code.

This amendment rescinds Chapter 3, which describes the fees that credit unions are required to pay to support the operation of the Credit Union Division through payment of examination and supervision fees. Any future fee structure changes will be approved and passed by public notice and hearing.

Notice of Intended Action was published in the December 25, 2002, Iowa Administrative Bulletin as **ARC 2209B**. No oral or written comments on the amendment were received. The adopted amendment is identical to that published under Notice.

The Board adopted this amendment on January 29, 2003.

This amendment is intended to implement Iowa Code section 533.1.

This amendment will become effective on March 26, 2003.

The following amendment is adopted.

Rescind and reserve **189—Chapter 3**.

[Filed 1/31/03, effective 3/26/03]
[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2315B

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby amends Chapter 9, "Real Estate Lending," Iowa Administrative Code.

Chapter 9 defines real estate lending. The purpose for the amendment is to have each credit union establish and maintain its own written real estate lending policy.

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on December 25, 2002, as **ARC 2211B**. No oral or written comments on the amendment were received. One change from the Notice has been made. In the first sentence of the subrule renumbered as 9.1(1), the words "its size" were replaced with the words "the size of the credit union" for clarification. The sentence now reads as follows:

"The board of directors of the credit union shall formulate and maintain a written real estate lending policy that is appropriate for the size of the credit union and the nature and scope of its operation."

The Board adopted this amendment on January 29, 2003.

This amendment is intended to implement Iowa Code sections 533.4(21) and 533.16(4)"a."

This amendment will become effective on March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [9.1 to 9.3] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 2211B**, IAB 12/25/02.

[Filed 1/31/03, effective 3/26/03]
[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2316B

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby amends Chapter 17, "Investment Powers," Iowa Administrative Code.

Rule 189—17.1(533) describes commercial paper purchased for investment by a state credit union for its own account. This amendment updates the rule by eliminating outdated language.

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on December 25, 2002, as **ARC 2212B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on January 29, 2003.

This amendment is intended to implement Iowa Code section 533.4(5).

This amendment will become effective March 26, 2003.

The following amendment is adopted.

Amend rule 189—17.1(533) as follows:

189—17.1(533) Commercial paper characteristics. Commercial paper purchased for investment by a state credit union for its own account as provided in ~~1987 Iowa Code supplement~~ section 533.4(5) shall consist of obligations which have been publicly offered or which are of such sound value or are so well secured as to be readily salable at a fair value, with investment characteristics not distinctly or predominantly speculative. ~~They~~ *The obligations* shall fall within the two highest grades according to a reputable rating service or they shall represent unrated issues of equivalent value.

[Filed 1/31/03, effective 3/26/03]
[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2310B**DENTAL EXAMINERS BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 20, "Dental Assistants," Iowa Administrative Code.

These amendments clarify the expiration date for dental assistant trainee status. In addition, the amendments allow a person enrolled in a cooperative education or work-study program through an Iowa high school to apply for dental assistant trainee status. The Board has received several written and oral comments requesting that high school students in a work-study program be allowed to work as dental assistant trainees.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as **ARC 2114B**. A public hearing on the amendments was held on December 3, 2002. Two written comments on the amendments were received. The amendments are identical to those published under Notice.

These amendments were approved at the January 23, 2003, regular meeting of the Board of Dental Examiners.

These amendments are intended to implement Iowa Code chapter 153.

These amendments will become effective on March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [20.4(1), 20.4(2), 20.6(1), 20.6(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 2114B**, IAB 11/13/02.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2304B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.6, the Environmental Protection Commission hereby amends Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code.

This amendment adopts definitions of "emission data" and "effluent data" for purposes of confidential treatment by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as **ARC 2097B**. The deadline for public comment was December 3, 2002. No comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 22.11, 455B.137 and 455B.179.

This amendment will become effective March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [2.1] is being omitted. This amendment is identical to that published under Notice as **ARC 2097B**, IAB 11/13/02.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2306B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.6, the Environmental Protection Commission hereby amends Chapter 7, "Rules of Practice in Contested Cases," Iowa Administrative Code.

This amendment adopts by reference amendments to 561—Chapter 7, Rules of Practice in Contested Cases, which are simultaneously being adopted by the Director of the Department of Natural Resources, and which are published herein in full as **ARC 2303B**. The purpose of this rule making is to amend the Department's procedural rules to conform to Iowa Code chapter 17A, to update the titles of Department officials mentioned in the rules, and to correct an error in the rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as **ARC 2099B**. The deadline for public comment was December 3, 2002. No comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 455A.6.

This amendment will become effective March 26, 2003.

The following amendment is adopted.

Amend rule 567—7.1(17A) as follows:

567—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7, Iowa Administrative Code, *as amended on February 19, 2003, effective March 26, 2003.*

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2305B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455D.7(1), the Environmental Protection Commission hereby amends

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Chapter 117, "Waste Tire Management," Iowa Administrative Code.

The amendments increase to 300 feet the required separation distance between a property line, street, or public right-of-way and a permitted waste tire stockpile and implement, in conjunction with existing subrule 117.4(3), paragraph "a," subparagraph (15), the requirement of Iowa Code section 455D.11(4)"a" that burning be prohibited within 100 yards of a tire stockpile. The amendments do not affect operations at permitted waste tire processing sites because those sites have separate requirements for waste tire storage.

In subrule 117.3(3), a cross reference to the Iowa Code is amended to reflect statutory authority for the registration of waste tire haulers pursuant to 2002 Iowa Acts, House File 2554, section 4.

Notice of Intended Action was published on November 13, 2002, in the Iowa Administrative Bulletin as **ARC 2100B**. A public hearing was conducted on December 4, 2002. No comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 455D.7(1).

These amendments shall become effective March 26, 2003.

The following amendments are adopted.

ITEM 1. Amend subrule 117.3(3) as follows:

117.3(3) Registered waste tire hauler. A person who contracts with another person to transport more than 40 waste tires in a single load is required to contract only with a person registered as a waste tire hauler, pursuant to ~~Iowa Code section 9B.4~~ *Iowa Code section 455D.111*.

ITEM 2. Amend subrule **117.4(3)**, paragraph "a," subparagraph (8), as follows:

(8) ~~All waste tire piles must be located at least 50 feet from any property line, street, public right-of-way, or building.~~

ITEM 3. Amend subrule **117.4(3)**, paragraph "a," by adopting the following **new** subparagraph (17):

(17) All waste tire piles shall be located at least 300 feet from any property line, street, or public right-of-way.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/03.

ARC 2303B**NATURAL RESOURCES
DEPARTMENT[561]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.4, the Director of the Natural Resources Department hereby amends Chapter 7, "Rules of Practice in Contested Cases," Iowa Administrative Code.

The purpose of these amendments is to allow the Department's procedural rules to conform to Iowa Code chapter 17A, to update the title of Department officials mentioned in the rules, and to correct an error in the rules. The Department is an "umbrella" agency; these amendments are also being

adopted by the Environmental Protection Commission, published herein as **ARC 2306B**, and, in a subsequent publication, by the Natural Resource Commission.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as **ARC 2095B**. The deadline for public comment was December 3, 2002. No comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 455A.4.

These amendments will become effective March 26, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [7.1 to 7.4, 7.9, 7.10, 7.12, 7.13, 7.15 to 7.19] is being omitted. These amendments are identical to those published under Notice as **ARC 2095B**, IAB 11/13/02.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

ARC 2309B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby amends Chapter 21, "Licensure of Barbers"; rescinds Chapter 23, "Barber Schools," and adopts new Chapter 23 with the same title; and amends Chapter 26, "Fees," Iowa Administrative Code.

These amendments amend Chapter 21 by clarifying the date by which applicants must submit applications to be eligible to sit for examinations, revise reinstatement charts by excluding the examination fee, adopt an updated and revised chapter covering barber schools, and rescind the subrule requiring a fee for a change of location of a barber school.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 27, 2002, as **ARC 2129B**. A public hearing was held on December 19, 2002, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. Representatives from two schools made the following comments:

- Require a new school to post a letter of credit or performance bond with the state and require owners to have high moral character.
- Workstations must include a chair, sink and backbar.
- Eliminate the term "heat cap," or replace "heat cap" with "hood dryer."
- Change the phrase "hair body processing" to "permanent waving."
- Clarify the curriculum by including the fitting of hairpieces and the massage of the head and shoulders.
- Increase the number of instructors to a minimum of two licensed instructors for the first 24 students and an additional instructor for each additional 12 students. Also, clarify that a barber who is scheduled to take the instructor's examination and who is working as an instructor on a tempo-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

rary permit may be counted as an instructor for the instructor-to-student ratio.

- Replace the requirement that a student's written test must be returned to the student with a requirement that grades must be posted.

- Require schools to prepare transcripts for graduates.
- Require transfer students to offer proof of credit hours from a previous school.

The Board reviewed the comments that were received and has made the following revisions:

- Rule 645—23.6(158), paragraph "8," has been reworded by replacing the term "heat cap" with "hood dryer." Paragraph "8" now reads as follows:

"8. Electric equipment shall include the following: one high-frequency electrode, one twin vibrator, one hood dryer, one infrared lamp and one ultraviolet lamp."

- Fitting of hairpieces has been added to the list of supervised practical instruction in subrule 23.7(1).

- The following statement has been added to subrule 23.8(2): "An applicant who is waiting to take the instructor examination and who is working on a temporary permit may be counted as an instructor for the instructor-to-student ratio." Subrule 23.8(2) now reads as follows:

"**23.8(2)** The number of instructors for each barber school shall be based upon total enrollment, with a minimum of 2 instructors employed on a full-time basis for up to 30 students and 1 additional instructor for each additional 15 students or fraction thereof. An applicant who is waiting to take

the instructor examination and who is working on a temporary permit may be counted as an instructor for the instructor-to-student ratio."

- Subrule 23.11(2) was reworded to require that students be issued a transcript when they have completed all the requirements for graduation. Subrule 23.11(2) now reads as follows:

"**23.11(2)** Students shall be issued a transcript when they have completed all requirements for graduation."

These amendments were adopted by the Board of Barber Examiners on January 28, 2003.

These amendments will become effective March 26, 2003.

These amendments are intended to implement Iowa Code section 147.7 and chapters 158 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.2(1)"f," 21.10(6), 21.11(7); Ch 23; 26.1(8)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2129B**, IAB 11/27/02.

[Filed 1/30/03, effective 3/26/03]

[Published 2/19/03]

[For replacement pages for IAC, see IAC Supplement 2/19/03.]

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of General Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

PRSR STD
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
